

Doing Business and Investing in Korea



This Guide has been prepared to provide information on doing business in the Republic of Korea. While the Guide covers a broad range of topics, it is not intended to provide comprehensive coverage and does not constitute the rendering of legal, tax or other professional advice by Samil PwC. Samil PwC has no obligation to update the information as law and practices change. For specific accounting, tax or legal questions, please refer to the laws, regulations and decisions or seek appropriate advice from your usual Samil PwC client service team or your other advisors.

The materials contained in this Guide were assembled in April 2012 and, unless otherwise indicated, were based on the information available at that time.

Contents

3	Foreword
4	About Samil PricewaterhouseCoopers
7	Contact Information in Korea
8	1. Korea_ A profile
12	2. Economy and Business Environment
21	3. Foreign Investment and Trade Opportunities
27	4. Restricted Industries and Regulations
35	5. Exporting to Korea
42	6. Labor Relations and Social Security
49	7. Banking and Capital Markets
54	8. Setting up an Entity
56	9. Audit and Accountancy
61	10. Taxation of Corporations
82	11. Taxation of Foreign Corporations/Shareholders
87	12. Partnerships and Joint Ventures
90	13. Personal Income Taxation
103	Appendix : Withholding tax rates on dividends, interest, and royalties



Foreword

As the global economy continues to struggle to emerge from the 2008 financial crisis, recovery has been further hampered by the Euro zone debt crisis and the tsunami in Japan. Financial markets continue to be volatile and the outlook for recovery remains uncertain. Despite the challenging global environment, Korea's economy and financial markets have demonstrated strong resiliency. Korea's economic growth in the wake of global turbulence, combined with continued deregulation, has helped contribute to Korea's attractiveness as market for foreign investors.

Foreign investment in Korea has been recognized as an important source of advanced technology and job creation. The foreign investment policy has been designed to spur such foreign investment. As Korea continues to move towards more technology-intensive industries and focuses on a shift to a knowledge-based service economy, there are abundant business opportunities for foreign investors, particularly leaders in advanced technology and the service sectors. Finally, Korea's recent free trade agreements with the US and the EU will significantly accelerate

the openness and competitiveness of the Korean market, making it more attractive to global businesses.

The information contained in this guide has been prepared by Samil PwC professionals with expert knowledge and practical experience in the full range of business and regulatory issues and is intended to cover considerations of fundamental importance to foreign investors and multinationals doing business in Korea. We hope this guide can serve as a useful resource to better understand the Korean market and provide insight into certain areas of interest when contemplating business or investment in Korea.



Kyung-Tae Ahn
Chairman

A handwritten signature in black ink, reading 'Kyungtae Ahn' in a cursive style.



About Samil PricewaterhouseCoopers

Samil PricewaterhouseCoopers (Samil PwC) is Korea's network firm of PwC, the world's leading professional services firm which operates and provides industry-focused assurance, tax and advisory services in 158 countries around the world with more than 169,000 people.

As the leading professional service firm in Korea, our expertise covers audit and accounting, tax, performance improvement, transactions and financial advisory. We also provide services designed to help our clients respond effectively to new regulations and challenges in today's business and management environment. We assist our clients in finding sustainability business solution as well as solutions to improve business performance, reduce costs, manage business risks, develop governance strategy, balance compliance with competitiveness, perform corporate reporting in compliance with local and global regulatory requirements.

Throughout our 40-year history, we have been best known for helping clients improve their external financial reporting and adapt to new regulatory requirements, including IFRS. We have also been recognized as a leader in the provision of professional services including tax and transaction and financial advisory services.

We aim to build the most respected and trusted professional service firm in Korea and global markets. We have constantly grown to have 3,800 employees in Seoul, Busan, Daegu and Kwangju offices. Also, we have a network of Korea Business Desks at strategic points around the world (15 nations and 29 cities as of April 2012). KBD's have dedicated professionals with language capabilities in both Korean and local vernacular to work together with local professionals who have expertise in the regions to create a service team that can assist clients to meet their goals to conduct business globally.

Our services

Assurance

- Audit
- Accounting advisory services
- IPO and capital markets
- Risk and controls solutions
- System and process assurance
- Internal control and related system
- Internal audit outsourcing
- Third party assurance
- Greenhouse gas and climate change control services

Consulting

- Finance and accounting process and system
- Governance and risk compliance
- Actuarial insurance management
- Sustainable cost management
- Supplier relationship management
- IT effectiveness services
- IT governance
- Information strategy and planning
- Enterprise contents management
- Business process outsourcing

Tax

- Corporate restructuring
- Transfer pricing
- Structured financing and real estate investment consulting
- Tax health-check
- Tax dispute resolution
- Tax audit assistance
- Inbound and outbound planning & structuring
- Family & Business Succession Planning
- Non-profit corporation services
- Human resources services
- Corporate administrative services

Deal Business

- Corporate finance & M&A advisory
- Financial due diligence
- Private M&A deal services
- Real estate & infrastructure services
- Valuation and strategy services
- Dispute analysis and investigations
- Pre and post deal strategy services
- Business recovery services
- Energy and resources services

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PwC Brazil
Sao Paulo

PwC US
New York
Los Angeles
Atlanta
Dallas
Florham Park
Houston
San Diego
San Francisco
San Jose

PwC Canada
Calgary
Toronto

PwC Taiwan
Taipei

PwC Singapore
Singapore

PwC Indonesia
Jakarta

PwC Japan
Tokyo
Osaka

PwC China
Beijing
Shanghai
Guangzhou

PwC Australia
Sydney

PwC Hong Kong
Hong Kong

PwC Netherlands
Amsterdam

PwC Germany
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1. Korea_A Profile

Size and population

The Republic of Korea (Korea) occupies 38,300 square miles (99,400 square kilometers) of the southern portion of the Korean peninsula. North Korea occupies 47,300 square miles (122,400 square kilometers) of the northern portion. South Korea and North Korea are separated by the demilitarized zone. The overall size of the Korean peninsula is comparable to that of the British Isles or New Zealand. The peninsula's terrain is mostly mountainous (about 70 percent of the total area), and only 20 percent of the land is arable.

With a population of over 50 million people (including approximately one million registered foreigners), Korea is one of the most densely populated countries in the world. Seoul, the nation's capital and the largest city in terms of population and business infrastructure, is occupied by more than 10 million residents. Korea is comprised of nine provinces and six main cities –Seoul, Busan, Gwangju, Daejeon, Daegu, and Incheon - which have provincial status

Climate

The Korean climate has four distinct seasons. Spring and fall are very pleasant with mild temperatures. During the summer, temperatures can reach up to 95° to 100°F (35° to 38°C). Winter temperatures average 18° to 34°F (-7° to 1°C) with moderate snowfall. Average annual rainfall ranges from 45 to 50 inches (115 to 125 centimeters), of which almost one-half occurs during the monsoon season in July and August. The Korean peninsula is generally protected from Southeast Asia's fall typhoons by the Japanese archipelago and earthquakes are rarely experienced.

Korea also ranked the world's 5th largest in patent cooperation treat applications, following US, Japan, Germany and China.

Skilled Labor and Technology

With insufficient natural resources, Korea's principal resource is an abundant supply of skilled labor. Because of the wide availability of education in Korea and Koreans' enthusiasm for education, its literacy rate is over 98 percent and the majority of new entrants in the manufacturing sector have at least a high school level of education. Korea has one of the world's highest university enrollments ratios among OECD countries, while Korean 15-year-olds have one of the highest reading scores in the OECD area. Skilled and hard-working labor is one of the strongest instruments to enhance the profile of Korea's industries in the global economy. The country's skilled labor force has made Korea one of the world leaders in industries such as shipbuilding (2nd, 2010), auto vehicle manufacturing (5th, 2010) and steel making (6th, 2010). Korea's competitiveness also comes

from its strength in information and telecommunications technology. Korea was one of the world's top five Internet users (1st in mobile broadband penetration and 4th in fixed broadband penetration) according to the International Telecommunication Union in early 2011. In addition, Korea has impressive track records in patent related indices. Korea recorded the 4th largest number of international property rights applications in the world during 2010, following China, US and Japan, according to the Korean Intellectual Property Office. In 2011 Korea also ranked the world's 5th largest in patent cooperation treat applications, following US, Japan, Germany and China.

98%

Korea has a literacy rate of over 98 percent, which is one of the highest scores in the world.

Education

Korea has a literacy rate of over 98 percent, which is one of the highest scores in the world. The school system is modeled after the U.S. educational system; six years of elementary school and three years of middle (secondary) school education are free and compulsory. This is followed by three years of high school education. The majority of expatriate children living in Korea attend foreign schools. There are a total of 45 foreign schools in Korea, including 18 American or British schools, 18 Chinese schools and 8 others (Germany, French, Japanese, etc.) as of November 2011. The highest concentration of foreign schools is found in the capital, Seoul with 18 schools and Busan with six. Most of the foreign schools use English as the language of teaching. Schools with education in English offer programs from preschool through high school, while others offer certain levels only. For children of expatriate employees in Korea having valid foreign passports, there is no specific requirement for admission to foreign schools.

Korean lifestyle

Korea has comprehensive healthcare and educational systems, which are rated high by global quality of living surveys.

All major cities are connected by expressways and Korea Train eXpress (KTX), Korea's super high-speed rail system. Seoul has a dependable and effective mass transit system of subways and buses, and taxis are plentiful.

Korea's telecommunications system, including mobile telecommunications, is generally efficient. Almost every Korean has a mobile device and about half of them use smart phones. Approximately 80% of the population is connected via Internet, and 50% of Koreans are SNS users.

Korean people are very hard working and family oriented. Human relations often play an important role in Korea.

Foreign residents account for 2.5% of the total population and the figure is expected to reach 10% in 2050. Korea fully opened its doors to foreigners only about a decade ago, and now proactively supports multiculturalism and provides a variety of services for the convenience of foreign families.

For more information on Korean lifestyle including transportation, telecommunications, housing, health, etc., please visit InvestKorea's Life in Korea website: www.investkorea.org/InvestKoreaWar/work/ik/eng/bo/bo_01.jsp?code=10205090101

Information on opening a bank account and conducting other financial transactions in Korea can be found in the Financial Hub Center website: http://www.fnhubkorea.kr/fhk_eng/main.jsp





2. Economy and Business Environment

The Korean Economy

Korea has been one of the world's most dynamic economies. Since joining the trillion dollar club of world economies in 2004, Korea has become the world's 13th largest economy. Initially a system of close ties of government and business including directed credit helped to make this success possible. The government promoted the import of raw materials and technology at the expense of consumer goods and encouraged savings and investment over consumption. Korea adopted numerous economic reforms following the global crisis including greater openness to foreign investment and imports. The economic growth moderated to 4% to 5% annually between 2004 and 2007 and slowed to 2.3% during the global crisis during 2008 and 0.3% in 2009. However, Korea has achieved one of the fastest recoveries from the 2008 global recession. Korea's GDP grew 6.3% in 2010 and 3.6% in 2011. According to the Bank of Korea, Korea's per capita income rose from USD17,041 in 2009 and USD20,562 in 2010 to USD22,489 in 2011. Korea became the world's 7th largest exporter in 2011, from 9th in 2010. Exports represented 38% of GDP in 2001; this rate has continued to rise, representing over 57% in 2011.

Framework of Industry

Korea's economy is highly dependent on foreign trade. Korea became the world's ninth economy joining the trillion dollar club of foreign trade in 2011, following the lead of the US, Germany, China, Japan, France, UK, Netherlands and Italy. Most major industries are either export-oriented or suppliers for export industries in the manufacturing sector. Amid concerns that increasing labor costs and imports of low-priced goods from underdeveloped countries in Asia are causing Korea to be less competitive in lower-quality and labor-intensive products, Korea's focus is on higher-quality, value-added products and the high technology sector. High-technology products such as semiconductors, computers, wireless communication devices, automobiles and shipbuilding accounted for 33 percent of the nation's total exports during 2011.

Most companies are small and closely held by controlling families. Conglomerates known as Chaebol are an indispensable part of the Korean economy and have played a pivotal role in the nation's industrialization over the last five decades. After the Asian financial crisis in 1997, a number of Korean firms including Chaebols were put under intense

pressure to implement real operational restructuring with improvements in corporate governance, management transparency and capital structure. Since then, subsidiary business swaps and capital structure improvement plans have been well-implemented. Chaebols are now more focused on their core businesses, have much sounder balance sheets, and transparent management and improved governance structure. Still, Chaebol's economic concentration in Korea remains high. Top10 Chaebols represent 25% of the country's mining and manufacturing industrial output, while top 100 representing almost 50% of the industrial output, according to the government economic think tank, the Korea Development Institute (2010). The government controls or dominates certain major industries including tobacco, ginseng, oil, mining, utilities, public services, and industries that require heavy capital investment.

Korea's economy is highly dependent on foreign trade.

• Developing the service sector

Manufacturing has driven Korea's rapid economic development, making it a leading industrial giant. Korea is now the world's second largest shipbuilder, fifth largest car maker and sixth largest steel maker. In contrast, the service sector needs to strengthen resources and competitiveness. Most companies are small and medium-sized enterprises which account for about 80% of output and 90% of employment in the services sector. As part of the efforts to reduce a gap in regulation and benefits between manufacturing and services, the government has undertaken five rounds of extensive measures to boost the service sector since 2008. The government's 2009 plan to develop services included healthcare, education, green financing, software and tourism. The government also released industry-specific policies to nurture promising service industries in 2010, 2011 and 2012 with a focus on job creation by those industries. Highlights of the government's 2012 plan includes promoting foreign investment in local hospitals in free economic zones, R&D tax credits for 11 knowledge-based service sectors including healthcare, information service, management consulting, cultural service, education, and expanding tax benefits for service businesses in the foreign investment zones including tourism, logistics, R&D related industries, computer programming

and system integration. The Korean government has recognized that foreign expertise is valuable in contributing to the development of business services and promoted foreign investment in these areas.

• Energy industry

Because of the lack of natural resources, dependence on overseas energy imports has been steadily rising. Korea depends heavily on imports including crude oil for its basic energy supply, being the world's 5th largest oil importer. In order to enhance energy self-sufficiency, Korea has placed a significant emphasis on nuclear energy, solar and wind power. Korea competes with world leaders in the nuclear energy market. Global interest in green energy is dramatically increasing and Korea is not an exception. The government has set an agenda to foster development of alternative energy and provides financial and political support to businesses involved.

In addition, Korea's rapidly aging population and demographic changes should foster growth in new industries including healthcare.

Aims of Government Policy

- **Value-added strategy in core industries**

High competency in core industries such as shipbuilding, automobile, and steel making is obtained through high technological development supported by the government. Though such industries have shown significant growth, there is a clear limit to price competition in the global market. Therefore, companies are focusing on the development of high value-added products and services. Such value-added products include human-friendly vehicles that are hybrid or fuel-cell powered, specialized ships that require core advanced technology, and advanced materials.

- **Low carbon, Green growth**

Recently, ‘green growth’ has arisen as a significant issue across industries as the Government promotes tax incentives and funding for green technology. The Korean government expects “Low carbon, Green growth” to guide the country’s development over the next several decades. The government strongly encourages foreign participation and welcomes foreign expertise in high tech industries and business services. A variety of tax and other investment incentives are granted and institutional hurdles and regulations are being removed.

Korea has been participating in the UN Framework Convention on Climate Change (UNFCCC) and has been put under greater pressure to make a commitment to gas reduction as its greenhouse gas emission ranked the 8th amongst OECD members (2010). In May 2012, Korea became the first country in Asia to pass laws that mandates the launch of an emissions trading scheme (ETS) in 2015. To prepare industries for the ETS, the Environment Ministry launched the voluntary “cap without trade” Target Management

System (TMS) in 2012. From 2015, participation in the ETS will be mandatory for installations emitting 25,000 tonnes of carbon dioxide and firms emitting 125,000 tonnes of carbon dioxide annually with smaller entities continuing with the TMS. The law provides for financial and fiscal incentives to induce the necessary restructuring in a cost-effective way.

- **Selected new growth engine industries**

With an eye towards market trends and heightened levels of globalization, the government has selected 17 new growth engine industries across three sectors. With a protracted multi-year investment, 17 selected areas are expected to serve as future drivers of economic growth and the government also continues to promote foreign investment in these areas. The 17 selected industries include: renewable energy, low-carbon energy technologies, green transportation systems, IT convergence citywide, LEDs in the green technology sector; broadcasting and communications media, intelligent robots, bio-pharmaceutical and medical devices, information technology, food industry and nano-convergence in the high-tech convergence sector; and healthcare, green financing, cultural content and software, education, MICE and tourism-related industries in the value added service sector.

- **Promoting foreign direct investment**

The Korean government fosters foreign direct investment (FDI) that creates a ripple effect in employment, technology and the economy. Korea supports searching for investment targets and provides buyer-focused location and incentives (e.g. providing amicable and convenient location, deregulation and simplifying related procedures). Foreign investment is encouraged in the fields of parts and materials as well as core technologies and the service sector. The government also facilitates investment in government-derived business and regional development projects.

Market Overview

Korea is the 13th largest economy in the world and an outstanding trading partner as the world's 9th largest exporter. With its high-tech industry and a sophisticated consumer market, it offers an attractive market for businesses worldwide to enter or expand their Asian presence. Along with average annual GDP growth of 4.9% during the last decade (2000~2010), strong purchasing power is another factor that makes Korea an attractive market. The Korea-US free trade agreement which is the largest trade agreement in its history will lead to a significant change in the market climate in Korea. The FTA will bring about stronger protection of intellectual property rights, greater transparency in procurement and contracting processes, stronger trade facilitation, easier market access, etc. As Korea continues to move towards more technology intensive industries, foreign companies will find market opportunities in such industries where they have competitiveness and lead technology development.

• Global test market

The Korean market is an ideal test bed for global companies from Motorola cell phones and Starbucks' Green Tea Lattes to Samsonite luggage. There are several reasons. World-class IT infrastructure and a high-speed communications network let tech-savvy consumers communicate actively about new products. Korea boasts diverse income distribution among its 50 million people - a large population relative to the country's size. Highly wired early

adopting and trend-sensitive consumers who enjoy trying out new goods, which means new product diffusion is fast and product turnover rates are high. According to the Korea Trade Investment Promotion Agency (KOTRA), Intel's Sonoma notebook which used the latest semiconductors was introduced in Korea first. Toyota's Lexus ES350 and Nissan's New G35 made their marketplace debut in Korea. Starbucks' Green Tea Latte was first released in Korea. Luggage manufacturer Samsonite considers Korea to be the largest luxury goods market in Asia and a test market for new high-end goods.

• Gateway to Northeast Asia

Strategically located between China and Japan – two of the world's largest markets – Korea is located within an average air travel time of three hours to over 81 cities with a population of one million or more. Korea's broad FTA network boosts the openness and competitiveness of the Korean market, making it more attractive to global business. The Korea-US FTA which came into force on March 15, 2012 will further enhance access by multinational companies doing business in Korea to the world's largest consumer market. In addition to the US, Korea has signed FTAs with the EU, EFTA, ASEAN and countries including Chile, Singapore, Peru and India. In addition, active negotiations are currently under progress with Canada, Mexico, Australia, New Zealand, Columbia, Turkey and GCC (April 2012).

Foreign Exchange Policy

Foreign exchange control in Korea originated with the enactment of the Foreign Exchange Control Law (currently Foreign Exchange Transaction Law) in 1961. The purpose of this law was to properly control the outflow of foreign exchange, use incoming foreign exchange in the process of economic development, and to effectively cope with a chronic foreign exchange shortage. The Foreign Investment Promotion Law (FIPL) and the Foreign Trade Act also indirectly control foreign exchange transactions.

Through a series of foreign exchange reforms, restrictions on current and capital account transactions and foreign exchange markets were phased out with simplified regulatory requirements for payment and receipt in foreign currencies by companies and individual residents. Restrictions on nonresidents' local currency deposits and trusts with maturities of less than one year were also eliminated from 2001.

In the past, restrictions on foreign payment were emphasized, and foreign receipt, in principle, was freely allowed. However, the method of foreign exchange control has been changed in a way to emphasize equilibrium of international balance and to prevent increases in domestic currency as a result of incoming foreign exchange. Payment and receipts for current transactions are liberalized although several types of current transactions require notification or confirmation for the purpose of monitoring. All capital account transactions are permitted unless specifically restricted by the law. Transactions on the negative list such as loans, guarantees, financial derivatives and overseas portfolio investment require prior permission in certain cases. Most settlement methods are freely permitted without limitation. Only a few specific settlement methods such as netting, payments exceeding the periods prescribed by the Ministry of Strategy and Finance, third party payments, and payments bypassing foreign exchange banks (with an exception to the payment of USD10,000 or less per current account transaction) are subject to declaration to the Bank of Korea or, in certain cases, the designated foreign exchange banks. The purpose of implementing this declaration system is to monitor foreign exchange flows and take early action to prevent any severe disruption of the domestic foreign exchange market or the balance of payments.

Intellectual Property Rights Protection

Korea's patents, trademarks, trade secret and copyright laws were amended in 2011 and 2012 to conform to its free trade agreements with the EU and the US. The amended laws support stronger protection of geographical identifications for certain products such as agriculture goods, wines and spirits. Also the amended patent laws protect sounds and smells as trademarks, extend the duration of a patent right due to a delay in registration, abolish the provision on cancelling a patent right due to non-working and introduce a new system which allows a court to order the maintenance of trade secrets learned during a litigation and prohibits the disclosure to relevant people. In addition, the Patent Act will be amended to permit the filing of patent applications in foreign languages in order to reduce foreign applicants' administration and cost. With the exception of works produced between July 1, 1988 and June 30, 1994 (50 years), copyright protection has been extended from 50 years to 70 years.

Patents and trademarks must be registered with the Korea Intellectual Property Office (KIPO) through a licensed Korean agent in accordance with relevant laws to be protected. Foreign investors are able to register patents or trademarks in their own name and receive the same benefits as Koreans. The duration of a patent is twenty years and can be extended up to five years. Trademark protection is granted for ten years from the date of registration and is renewable. Foreign and domestic authors can secure copyrights in Korea. Copyrights are registered with the Ministry of Culture and Tourism. KIPO, under the umbrella of



the Ministry of Knowledge and Economy is the government body regulating and administrating matters to protect intellectual property rights. In September 2010 KIPO has launched the Special Judicial Police Squad to more effectively crack down on counterfeit goods.

Personal Information Protection

Personal Information Protection Act (PIPA) became effective in Korea on September 30, 2011. With the enactment of the PIPA, all companies, organizations, governmental agencies, whether engaged in for-profit or non-profit activities (subject to certain exceptions) as well as persons which process personal information when conducting their businesses must comply with the protective measures as prescribed in the PIPA. There is generally no minimum threshold on the size of the entity and all companies who are collecting personal information are subject to the requirements under the PIPA. One of the key principles under the PIPA is that the entity which is processing the personal information must disclose certain matters to the information owners and obtain their consent prior to the collection, use and provision to third parties of their information. Non-compliance with the PIPA may subject a company to administrative penalty, civil liability and criminal penalties.

3. Foreign Investment and Trade Opportunities

Trend and Liberalization of Foreign Direct Investment

FDI in Korea has been important in the financial and corporate restructuring that was accelerated by the Asian financial crisis which began in 1997. Foreign investors acquired financially distressed local companies, banks or other financial service companies. In an effort to attract FDI, Korea also opened several sectors to foreign investors, including property, securities dealing and other financial businesses. Restrictions limiting foreign ownership of equity were abolished, allowing foreign investors to acquire as much as 100 percent of an existing Korean company.

Since the financial crisis, cross-border mergers and acquisitions have been one of the most important forms of FDI in Korea. A more liberalized environment for FDI has attracted foreign investors. In addition to strengthening the rights of foreign investors, the Korean government has taken measures to simplify procedures for mergers and acquisitions, reform bankruptcy laws, introduce short-term measures to facilitate asset transfer, permit the establishment of holding companies, and allow foreign investment companies to freely acquire land without limitations on the size and use of land. Since the global financial crisis in 2008, however, FDI in the form of M&A has slowed. The portion of M&A-based investment to total FDI slowed to 29% in 2009, 15% in 2010 and 14% in 2011 following the peak of 38% during 2008. In contrast, Greenfield FDI has steadily increased since a slowdown during 2008. Boosted by the service sector, foreign investment in Korea during 2011 marked a record high of USD13.7 billion in the recent



10 years, up 4.6% from 2010. Foreign investment in the service sector increased 15% in 2011, while foreign investment in the manufacturing sector decreased 15%.

By country, the US remains the largest single investor in Korea during the past 10 years, followed by Japan, Netherlands, the UK and Germany. These top five countries accounted for 59% of total foreign investment in Korea during the last decade. Parts and materials, biomedical, green energy and entertainment (such as cultural and online game contents development) are cited by the Ministry of Knowledge and Economy as prospective areas for foreign investors in the future.

Foreign Trade

International trade is the engine driving the Korean economic growth. According to Korea's Ministry of Knowledge and Economy, foreign trade represents more than 80% of Korea's GDP. In the past, Korea's imports mainly included raw materials and parts used to manufacture labor-intensive export goods. Currently, Korea's imports have been diversified to include cars, electronics and various consumer goods as well as parts used to export high technology products. Oil and energy resources are also one of Korea's strongest imports. With Korea's recent free trade agreements with the US and EU, foreign trade is expected to grow far faster.

15%

Foreign investment in the service sector increased 15% in 2011.



Investment Opportunities

In the past, most opportunities for foreigners have involved establishing labor-intensive manufacturing or processing operations geared toward the export market. These days, investors obtain better returns by utilizing the skilled workforce in the higher-value and high technology fields. The increasing affluence of Korea's large middle class also presents opportunities for consumer products and luxury goods. Now, foreign investment may enter into retail trade as well as import and wholesale trade for most consumer products. Liberalized financial business service sectors provided special opportunities for foreign investors. However, the global financial crisis in 2008 undermined investment in this sector. More recently, Korea's free trade agreements with US and EU which came into force in March 2012 and July 2011, respectively make Korea an attractive location for regional headquarters of US or EU-based foreign multinational companies in high technology industries. These free trade agreements also appear to provide a good opportunity for Korea as an attractive location for Asian multinational companies in parts and materials industries, especially from Japan and China which would be looking to expand their global markets. Korea is expected to be a gateway to Northeast Asia for trading economies.

Incentives

- Government policy

Tax and cash grant incentives are available for qualifying FDI. Also, tax incentives are available for qualified foreign investments in free trade zones, foreign investment zones, free economic zones, industrial complexes, etc.

- Tax incentives

Various tax incentives and benefits are designed to promote foreign direct investment in Korea. Foreign direct investment which meets a set of qualifications may enjoy exemption from or reduction in corporate and income tax on business income, dividend income, earned income etc. and customs duties on capital goods as prescribed in the Special Tax Treatment Control Law (STTCL). Also, acquisition tax, registration tax, and property tax on properties acquired or held for the operation of the business are exempted or reduced under local government ordinances. The most common types of tax holidays are seven-year tax exemptions or reductions for Greenfield FDI in pre-designated high technology businesses and industrial support businesses that should have significant ripple effect on Korean economic growth, job creation, competitiveness and technology advancement.

Foreign expatriates and employees working in Korea are granted a special tax concession of a flat income tax rate on their employment income and foreign engineers may receive a 50% reduction in income tax on wages and salaries earned for a certain period.

- Cash grants

Cash grants are available for qualifying foreign investors that should meet the 30% foreign ownership requirements (and USD10 million of minimum capital requirements for manufacturing) when they invest in any of the prescribed businesses including: industry-supporting service business, high-technology business, parts and materials manufacturing, new or additional facility investment contributing to job-creation and other prescribed businesses contributing to the enhanced competitiveness of the Korean economy and industries. Cash grants are 5% or more of the amount of foreign investment in Korea, which shall be determined through negotiations between the foreign investor and the government. Also, cash grants are available in order to attract multinational corporations' regional headquarters and administrative offices in the country.

Foreign Investment Zones /Free Economic Zones

In an effort to attract large-scale foreign investment, the Foreign Investment Promotion Law (FIPL) also introduced the Foreign Investment Zone (FIZ) system. Unlike the past when the central government granted tax incentives to foreign direct investment (FDI) in pre-designated areas, the FIPL grants local governments the autonomy to designate FIZ for FDI upon request from foreign investors. The FIZ system allows qualified foreign investors to designate an ideal site for their business and receive benefits.

Free Trade Zones

These zones are special areas where foreign-invested firms can establish bonded warehouses as well as manufacture, assemble or process products for export, using tariff-free imported raw materials and semi-finished goods. Application for approval and other required procedures have been simplified and are administered by special offices located within the free-export zones.

Many support and service facilities, including electricity, water, transportation, telecommunications, packing, storage, and machine repair and maintenance, are provided to investors. Corporations eligible for occupancy in the free-export zones must: (1) engage in manufacturing, processing or assembling of export goods; (2) engage in the wholesale business mainly for import and export trades; and (3) engage in the logistics business such as warehousing, exhibitions, loading, transportation, etc.; and (4) businesses supporting tenant companies through finance, customs clearance and data processing. Free trade zone is one of the most preferential locations for foreign manufacturing companies with logistics operations.



4. Restricted Industries and Regulations

Regulatory Legislation

The Foreign Investment Promotion Law (FIPL) is the basic law for foreign investment. Unless stated otherwise in the FIPL, the Foreign Exchange Transaction Law will apply to matters related to foreign exchange and external dealings related to foreign investments. Since foreign-invested companies are local corporations established under domestic laws, the same laws that apply to purely domestic corporations will apply even if the foreign-invested company has gone through the processes as prescribed in the FIPL. Therefore, if approval and permission under each law are required, the relevant business may be conducted only after the required processes are completed.

- Foreign ownership ceilings

Out of a total of 1,145 categories under the Korean Standard Industrial Classification (KSIC) system, FIPL excludes 60 categories including public administration, diplomacy, national defense, etc. from foreign investments. Although foreigners can invest in all of the remaining 1,085 investment categories, 29 categories are subject to foreign ownership ceilings and are regulated by relevant industrial laws and the competent authorities, excluding three categories which are not open to foreign investment (i.e. nuclear power generation, radio broadcasting and terrestrial television broadcasting). Foreign ownership ceilings and additional criteria required by relevant laws and authorities are released and updated by the Ministry of Knowledge and Economy through its circular, Integrated Public Notice of Foreign Investment.

Foreign Investment Restricted Categories (issued on April 26, 2012)

Business Categories (KSIC)	Restrictions	Competent authority
Cultivation of grains and other food crops (01110)	Permitted excluding rice and barley cultivation	Ministry of Food, Agriculture, Forestry and Fisheries
Beef cattle breeding (01212)	Permitted with foreign ownership ceilings of less than 50%	
Coastal fishing (03112)		
Other basic inorganic chemical production (20129)	Permitted excluding the production and supply of nuclear generator fuels	Ministry of Knowledge and Economy
Other non-ferrous metal refining, smelting and alloy production (24129)		
Hydro power generation (35112)Thermal power generation (35113)Other power generation (35119)	The sum of generation facilities purchased by foreigners from the state-run KEPCO must not exceed 30% of the total domestic generation facilities	Ministry of Knowledge and Economy
Power transmission and supply (35120)	<ul style="list-style-type: none">Foreign investment ratio must be below 50%Ratio of voting stocks held by foreign investors < primary domestic shareholder ratio	
Radioactive waste collection, transportation and handling (38240)	Excludes radioactive waste management business under Article 9 of the Radioactive Waste Control Act	
Meat wholesale (46312)	Permitted with foreign ownership ceilings of less than 50%	Ministry of Food, Agriculture, Forestry and Fisheries
Inner harbor passenger transport (50121) Inner harbor freight transport (50122)	<ul style="list-style-type: none">Permitted for the transport of passengers or freight between South and North KoreaJoined with shipping companies of the ROKForeign investment ratio must be below 50%	Ministry of Land transportation and Maritime Affairs
International aviation transport (51) Domestic aviation transport (51)Small-sized aircraft transport (51)	Permitted with foreign ownership ceilings of below 50%	Ministry of Land Transportation and Maritime Affairs
Newspaper publication (58121)	Permitted when the foreign investment ratio is below 30%	Ministry of Culture, Sports and Tourism
Magazines and periodicals publication (58122)	Permitted when the foreign investment ratio is below 50%	
Program provider (60221)	Permitted when foreign investment ratio is below 49% (below 20% for general programming channel and 10% for specialized news channel business.)	Korea Communications Commission
Cable broadcasting (60222)	General cable broadcasting permitted when foreign investment ratio is below 49% (below 20% for CATV relay broadcasting)	

Business Categories (KSIC)	Restrictions	Competent authority
Satellite and other broadcasting (60229)	Permitted when foreign investment ratio is below 49% (below 20% for Internet multimedia broadcasting contents operation in general programming)	Ministry of Culture, Sports and Tourism
Cable communications (61210)	Permitted when the sum of shares held by foreign governments or foreigners is less than 49% of the total issued shares (for KT, however, no foreigner can become the largest shareholder, but permissible when he/she owns less than 5 percent of the total issued stocks.)	
Mobile communications (61220)	Permitted when foreign investment ratio is below 49% (below 20% for Internet multimedia broadcasting contents operation in general programming)	
Satellite communications (61230)	Permitted when the sum of shares held by foreign governments or foreigners is less than 49% of the total issued shares	
Other electronic communications (61299)	- However, there are no restrictions on value added communications businesses	
News offering (63910)	Permitted for commercial banks and regional banks	Financial Services Commission
Domestic commercial bank (64121)	Permitted when foreign investment ratio is below 25% Permitted only for commercial banks and regional banks	

Primary M&A Regulations

M&A-type foreign direct investment made through the acquisition of existing shares in Korean companies has slowed since reaching the peak during the Asian financial crisis in 2008, while Greenfield FDI has steadily increased.

(In USD thousands)

Type of FDI	2005	2006	2007	2008	2009	2010	2011
M&A	5,268,150	4,308,998	2,483,002	4,431,128	3,374,660	2,015,361	1,970,661
Greenfield	6,297,379	6,938,444	8,032,623	7,280,745	8,109,479	11,055,953	11,702,861
Total	11,565,528	11,247,441	10,515,625	11,711,873	11,484,139	13,071,314	13,673,521

Source: Ministry of Knowledge and Economy

Foreign acquisition of existing shares in a Korean company is restricted in certain industries. For example, foreigners must obtain a prior permission of the Minister of Knowledge and Economy (MKE) of their intended acquisition of existing shares, etc. of a defense industry company. The acquisition of existing stocks, etc. in violation of prior permission requirement should result in the loss of voting rights of such existing stocks and the MKE’s order to transfer the relevant existing stocks, etc. to a third party. The acquisition of stocks, etc. by mergers, etc. must be reported within 30 days after such acquisition (post-report). Foreigner reporting foreign investment by acquisition of stocks, etc. by mergers, etc., must file an alteration registration of a foreign-invested company.

- Five percent rule

In the wake of increasing M&A activities and growing presence of foreign investors in the Korean stock market, the Korean government enforced the amended disclosure rule for share acquisitions of five percent or more in companies listed on the Korea Exchange and KOSDAQ in January 2005. The five percent rule requires any person who holds five percent or more of a listed company’s issued and outstanding securities to file a report to the Financial Services Commission (FSC) and the Korea Exchange in respect of their acquisition or subsequent changes in their holdings by one percent



5%

or more in the listed company within five days from the date of the transaction or the change. In this context, the same rule is applicable in case where a reporting investor changes the purpose of the investment in a listed company (i.e. exercising influence on management versus investment gain). The report must include information on legal status of the reporting investor and its related parties, investment purpose, source of funds for share acquisition, etc. For institutional investors including banks, securities companies and other financial institutions as specified in the laws, a longer period than five days is applicable. They must report by the tenth day of the following month unless the acquisition purpose is to exercise influence on the management of a company, which shall be subject to the five day deadline. Failure to comply with the disclosure requirements results in sanctions that restrict the violating party from exercising all voting rights from the date of reporting until six months after the filing date. For the non-compliance which is not a willful act, the violating party may lose voting rights from the date of reporting until the filing date.

- Shareholder disclosure obligation

In addition to the five percent disclosure requirement, an officer or a major shareholder of a listed company must file a report with the Securities and Futures Commission and the Korea Exchange of the ownership status of specific securities, etc. held for his/her own account, and, if any, the changes in the ownership status of such securities, etc. within five days from the date of such change.

• Tender offer rule

If a person (together with his/her related parties) who has come to own not less than 5 percent of equity shares of a specific company by purchasing them from 10 or more persons at over-the-counter markets during a six-month period, the person is required to purchase shares by means of a tender offer. Failure to comply with the tender offer rule would trigger criminal sanctions. Also, the violating person may be subject to restrictions on voting rights, the Financial Services Commission’s order to dispose of shares within six months and liability for damages.

Regulations for the acquisition of a publicly listed company

Category	Rule
Initial listing	A unlisted corporation which acquires a listed corporation can hold shareholders meeting for M&A after 2 months of business registration
M&A report filing	Submit M&A report to the Financial Services Commission before the base date
Penalties against inaccurate M&A report	<ul style="list-style-type: none">• Financial Services Commission’s investigation• Financial Services Commission’s administrative action• Criminal suit
Valuation	Third parties independent of the acquirer or the target required to perform merger valuation
Strengthen requirement for back-door listing	<ul style="list-style-type: none">• Delisting in violation of the requirements for backdoor listing• Restriction on selling new shares of the largest shareholder of unlisted corporation
Restriction on spin-off after M&A	Strengthen relisting requirements on sales side



Land Acquisition

In principle, foreigners are free to acquire land in Korea except for areas where approvals are required, such as military facilities, cultural assets, ecological preservation, and some lands on islands required for military purposes. After a contract for land acquisition is concluded, a report on the acquisition should be filed to the municipal governor within 60 days from the contract date. However, under the principle of reciprocity, the people and/or corporations of nations that forbid Korean people and/or Korean corporations from acquiring land might be forbidden or restricted from acquiring land in Korea.

Guarantee on Overseas Remittance

Overseas remittances of gains from the stocks acquired by foreign investors and stock transactions, principal and fees paid with respect to a loan contract under the FIPL, and compensation under a technology import contract are allowed in accordance to what has been permitted and reported under the foreign investment technology import contract at the time of the remittance. Overseas remittance of net profits or a certain portion of operating fund by local branches of foreign companies must be made through their designated foreign exchange banks.

Monopolies and Antitrust

Although it is not illegal for a monopoly situation to exist, the 1985 Antimonopoly and Fair Trading Act prohibits the abuse of market-dominating positions. Firms with more than a 50 percent market share and groups of two or three firms that share more than 75 percent of the market for a product are considered “market dominators.” Market dominators are prohibited from obstructing the business activities of other firms. This includes unjustifiably setting, changing or maintaining prices or supplies of goods and services, acting against consumer interests, and obstructing the entrance of other firms into the market. The Anti-monopoly and Fair Trade Act also prohibits false or deceptive advertising, as well as any joint actions by firms considered to restrain trade including fixing prices, restricting production and creating artificial sales terms.

The Korea Fair Trade Commission (KFTC) is responsible for monitoring the activity of market dominators and ensuring that price competition is fair and other conditions in other general markets are satisfactory. The KFTC has the authority to order a market dominator to decrease price, to stop abusing its monopolistic advantages, and disclose illegal actions of the firm to public. Abuse of monopolistic advantages may result in imposition of punitive tax penalties.

The Antimonopoly and Fair Trade Act also restricts mergers, acquisitions and business combinations that may restrain trade and competition. The restrictions apply to any large company whose paid-in capital is at least KRW2 trillion (KRW20 billion of domestic sales for business combination, etc. involving a foreign company) with an exception to business combinations meeting certain criteria as set forth in the Act. In the event of M&A or business combination, a report must be filed with KFTC.

5. Exporting to Korea

Trade with Korea in General

Korea's economic dependency on foreign trade is demonstrated by the fact that it accounted for 113.2 percent of GNI (2011). Japan and the US have long been the largest exporters to Korea, and recently imports from China have grown significantly. In 2011, the greatest sources of imports were China and Japan, followed by the EU and the US. Those four countries/regions accounted almost 50% of Korea's total imports (USD524,375 million in 2011).

Consumer goods are moderately imported items, but the volume has been increasing. Upon concluding the Uruguay Round of trade negotiations and following Korea's admission to OECD, the government has accelerated import liberalization by removing some of the institutional barriers that restrict imports and also by simplifying regulations. Including the recent Korea-US FTA, which is seen as the most important bilateral trade agreement ever undertaken by Korea, the country's broad FTA network offers a more attractive market to global business. Countries where Korea maintains FTAs are expected to represent 35% and 61% of Korea's foreign trade in terms of amount and territorial coverage, respectively.

Import Regulation

The Korean government requires that all importers have a general license or a special license for all imported items. Applications for import licenses are administered by government agencies or by the relevant industrial associations after performing screenings. Each specific license covers only one transaction and is necessary in order to secure credit letters. Foreign investors can often import raw materials and capital goods that are consumed to set up a manufacturing plant for a foreign investment project. The Ministry of Strategy and Finance is required to pre-approve imports that are to be exempt from customs duties. Restrictive regulations govern the content and safety of products, especially consumer goods such as foods, pharmaceuticals, toys, etc. are subject to more stringent examination.



Customs Duties

• Customs valuation

The dutiable value of imported goods is an adjusted transaction value that includes the cost, insurance, and freight (C.I.F.) incoterms at the time of declaration. The Korean Customs Service (KCS) introduced a new system called Advanced Customs Valuation Arrangement (“ACVA”) in 2008 which provides a mechanism for taxpayers and the KCS to agree to an appropriate dutiable value of imported goods sourced from related parties.

• Exemption or abatement

The following goods may be exempt from or eligible for reduction in customs duties.

1. Goods for diplomats, government use and academic research
2. Foreign goods for use in the defense industry and environmental pollution control
3. Raw materials for the production of aircrafts
4. Goods to be re-exported
5. Deteriorated or damaged goods
6. Re-imported goods

• Refund

For goods intended for use in the manufacturing or processing of goods to be exported for which customs duties have already been paid at the time of importation, customs duties will be refunded up to the limit of the amount of customs duties previously paid.

10%

A flat 10 percent value-added tax is imposed on all imports unless customs duties on such imports are exempt.

Indirect Taxes

A flat 10 percent value-added tax is imposed on all imports unless customs duties on such imports are exempt. An individual excise tax of 5~20% is also levied on the import of automobile and certain luxury items. Rates vary depending on the type of the product. Tariffs and taxes must be paid within 15 days after goods have cleared customs.

- **Taxable value and exemption**

The taxable value of imported goods is equal to the total amount of the transaction value for customs duties, individual excise tax and liquor tax, if any.

The following goods, on which customs duties are exempt, may also be exempt from VAT.

1. Goods imported as commodity samples and advertising materials
2. Goods re-imported after export
3. Goods imported temporarily under the terms of re-export
4. Duty-free goods

Additionally, under the Special Tax Treatment Control Law (STTCL), a qualified foreign invested corporation may be exempt from customs duties, individual excise tax and VAT on capital goods imported by such companies or contributed in-kind by a foreign investor.

Import Requirements and Documentation

The documents necessary to obtain import permission vary depending on the type of product, origin of the import and the kind of business in which the applicant is engaged. The following represents a summary of the basic documents and information necessary to apply for an import permit.

1. A completed application for an import permit
2. Lading bill
3. Invoice containing a description of goods, brand name, quantity, specifications, type or model number, unit price, freight, insurance and other expenses, as well as any amount of duty reduction or exemption of duties obtained at the port of shipment.
4. Packing list
5. Price declaration
6. Other requisite import documents, such as a certificate of origin

Origin Verification

Along with the enforcement of Korea-US FTA in March 2012, Korea's FTA network includes 44 countries including four in EFTA, 10 in ASEAN and 27 in the EU. To enjoy lower tariffs provided under FTA, origin verification requirements must be met. Willfully avoiding, interfering or rejecting the required verification is subject to fines up to KRW10 million. Verification targets are local importers of foreign goods who have applied for preferential treatment under FTA. The verification is ultimately aimed at foreign export goods and exporters. In this regard, foreign exporters should discuss requirements with local importers of their goods. Korea adopts both direct verification and indirect verification schemes. For example, direct verification is employed in FTAs with the US, Singapore, Chile, while indirect verification is applied to FTAs with the EU, EFTA and APTA. Korea's FTA with ASEAN and India adopt a combination of direct and indirect verification with a priority on indirect verification.

Authorized Economic Operator

The authorized economic operator (AEO) program is recognized as a long-term vision of custom authorities all over the world to reinvent the way they deal with trade flows and supply chains. A full-fledged AEO program has been in place in Korea since April 2009. Authorization will be granted to eligible entities which are categorized into nine (9) groups such as exporters, importers, customs brokers, warehouse operators, transporters, freight forwarders, carriers, air carriers and ground handlers. To be accredited, companies must file applications with the customs authorities. Examination of the applications takes 30 days which may be extended to no more than additional 30 days at the discretion of the Commissioner of the Korean Customs Service. Approval based on ACVA, FTA-approved exporter status, timely submission of information in relation to loading and unloading of shipments as per requests should facilitate the accreditation review process. AEO from five countries (as of February 2012) with which Korea has concluded mutual recognition agreements (MRA) do not need to re-apply in Korea in order to enjoy the benefits. These five countries include the US, Japan, Canada, New Zealand and Singapore. In addition, Korea plans to enter into an MRA with the EU and is actively engaging in negotiations with other countries including China, India and Malaysia.

Local Agent

Local laws do not necessarily require foreign manufacturers to have a local agent for exports to Korea. However, as a general practice, a local agent managed by home office personnel with Korean staff is established to assist in the marketing of products in Korea. A branch office is often established if export business is expected to be substantial. It is also normal practice to appoint a shipping agent to carry out procedures and all the paperwork relating to landing, placing goods into a bonded area, customs clearance, and delivery of imported goods.

Parallel Imports

While there is no rule on parallel imports of foreign brand goods, Korea has dealt with such imports through a government notice on the export/import clearance guidelines for the protection of intellectual property since 1995. Exclusive licensors or dealers of imported goods may request the customs office to hold the import customs clearance of parallel import goods. In response to such request, parallel importers may request the customs office to examine whether such request may be repealed and the customs office must notify the examination results in 15 days from the date the request is filed. The customs office is empowered to prohibit imports or exports of goods infringing intellectual property rights such as trademarks, copyrights and geographical identification.



6. Labor Relations and Social Security

Availability of Labor

Korea's labor force, a vital national resource, is generally regarded as highly literate, motivated and hardworking. Employee productivity in the manufacturing industry ranked the 5th highest among OECD countries in contrast to the weak productivity in the service sector (2010). Approximately 59.1 percent of the population 15 years old and over participated in economic activities; males accounted for 58 percent and females accounted for about 42 percent of the workforce (2011). In terms of the population aged 15 ~64 years (as measured by OECD), the economic participation rate was higher at 63.8% (2011). Unemployment in 2011 was about 3.4% percent, slightly down from 3.7% in 2010 and 3.6% in 2009. The number of skilled workers and technicians has been steadily increasing as a result of the increase in the number of vocational and

technical training programs. The quality and education standard of the labor force is considered very good. Currently, however, there are shortages of manual and factory labor in some industries. The labor shortage in labor-intensive jobs is being met by foreign workers from Southeast Asian countries such as Vietnam, the Philippines, Indonesia, Pakistan, Thailand, Mongolia, Sri Lanka, etc. Korea enforced the Act on Foreign Workers Employment in July 2010, which permits Korean industries to employ foreigners from countries where Korea maintains bilateral labor agreements.

Labor-management Relations

Over the past 20 years, the labor relations system in Korea has shown dynamic transformation. Under new economic and social conditions such as democratization, globalization, and economic crisis, this period has witnessed profound changes in the country's industrial relations and labor standards. The number of labor disputes accompanied by work stoppages peaked in 1987 at 3,749. This time was considered a turning point where employer-dominated industrial relations started to face strong opposition due to democratization. The number of disputes continually dropped and went down to 78 in 1997. In recent years, industrial relations have stayed stable and the number of labor disputes and illegal disputes continued to decline to 65 in 2011, down from 86 in 2010 and 121 in 2009. The 2011 figures were a record low in labor disputes during the past decades.

Downturn in labor disputes

Year	2005	2006	2007	2008	2009	2010	2011
No. of disputes	181	138	115	108	121	86	65

Labor market inflexibility and hostile labor-management relationships in Korea were considered prime factors that hinder the attraction of direct foreign investment as well as the efficient utilization of labor in the economy. The Korean government has been committed to stabilizing the labor-management relationship. Labor-management-government partnership committees have been established in 16 cities and provinces with administrative and financial support from the central government. Also, a government-sponsored body has been in place to assist foreign companies in Korea in resolving labor issues as part of the government's initiatives to promote foreign investment in the country.

Domestic labor laws are fairly strict and specific as to rights of workers. Korea has been working to improve its labor relations laws and systems in line with international standards. In this context, a union pluralism and time-off system allowing full-time union official was introduced in Korea for the first time in July 2011.



Unions and Collective Bargaining

As at the end of December 2011, there were 4,430 company unions in Korea, a 5.7 point decline from 2010. There are also several industry unions. Union and union-eligible Korean employees are estimated to number around 15 million out of a total workforce of 23.5 million. There are three national labor federations in Korea, Federation of Korean Trade Unions (FKTU), Korean Confederation of Trade Unions (KCTU) and Korea Labor Unions Confederation (KLUC). FKTU was the sole legal trade union center in Korea until KCTU was established in November 1995. KCTU is the second largest trade union in Korea, following FKTU. FKTU and KCTU are affiliated with the International Trade Union Confederation. KLUC was launched in November 2011 as the third and the smallest union federation.

Starting around June every year, trade unions in Korea start gearing up for industry-level collective bargaining, which is regarded as one of the most critical factors impacting the direction of labor relations. Key issues for collective bargaining are wage issues such as wage increase rate, wage scheme, etc. as well as non-wage controversial hot issues such as the discrimination of regular and “non-regular” workers. During 2011, paid time-off, multiple unions, employment succession etc. were issues in the process of collective bargaining.

Wages and Salaries

During the past decade from 2000 through 2010, nominal average monthly wages in all industries rose at an annual average rate of 6.1%, according to the Bank of Korea. The annual average increase rates during the period were 7.3% in the manufacturing industry and 5.45% in the financial services industry. The government policies are broadly aimed at creating a more equal playing field between services and manufacturing, by increasing tax incentives for the former to the same level as in manufacturing.

In accordance with provisions of the Minimum Wage Law, the Minister of Labor has set minimum wage standards applicable to all firms in all industries. Minimum wage levels are reviewed annually by the Minister of Labor. Wages must be above the minimum wage set by the Ministry of Labor every year. In 2012, the minimum wage standard was set at

KRW 4,580 per hour (6% increase from 2011), KRW 36,640 per day (8-hour day), and KRW957,220 per month (40 hours/week).

Salary ranges for executives and professionals vary widely as they depend on the industry, the company and the seniority or position of the individual. There has been a continuing transition from the seniority to performance-based pay system.

Equal Opportunity

The Korean Gender Employment Equality Law prohibits gender discrimination against any worker. Workers doing the same work of equal value are to be paid at the same wage scale. An employer violating these provisions is subject to penalty.

6.1%

During the past decade from 2000 through 2010, nominal average monthly wages in all industries rose at an annual average rate of 6.1%, according to the Bank of Korea.

Health and Safety

One of the Korean government’s priorities for social welfare is to extend the number of social insurance programs to cover more employees. The main social insurances are Unemployment Insurance , National Pension, Health Insurance and Workers’ Accident Compensation Insurance. The premium cost of the first three insurances is shared by the employer and employee, while there is no employee cost for the fourth. Foreigners working in Korea are required to contribute to the national pension scheme unless there is a social security agreement between Korea and their home country and the individual remains under the home country social security scheme. Korea has social security agreements in effect with 23 countries as of April 2012, including Canada, the US, the UK. Germany, the Netherlands, China, Italy, Japan, Mongolia, Hungary, France, Uzbekistan, the Czech Republic, Ireland, Belgium, Poland, Slovakia, Bulgaria, Romania, Australia, Austria, Denmark and India.

Worker’s accident compensation insurance is mandatory for all business establishments. In cases of job related accidents, medical costs must be covered for workers, as well as 70 percent of wages during the period they are out of work according to the Industrial Accident Compensation Insurance Law. In case of death, 1,300 days of wages and funeral expenses (120 days of wages) must be paid to the worker’s family.

Social insurance charges (of total amount of wages and salaries, April 2012)

Social Insurance	Employer's charges	Employee's charges
Unemployment	0.55%	0.55%
National pension	4.5%	4.5%
Health	3.09%	3.09%
Workers' accident compensation	0.005%	NA

Termination of Employment

It is possible to dismiss an employee for a legitimate reason and with 30 days advance notification in writing or payment of a month's wage. However, a Labor Dispute Mediation Committee exists for the purpose of conciliation, mediation and arbitration of labor grievances.

The Labor Committee is empowered to examine whether an employee has been dismissed for just cause and may also order that an unjustly dismissed employee be reinstated. Foreign investors should consult with qualified legal counsel for explanations regarding legal aspects of labor practices and dismissal procedures. If a worker continuously employed for one year or more is terminated for any reason, severance pay of at least one month or pay equivalent to an average of 30 days must be paid to the worker for every year of employment. For this purpose, the average pay is computed on the basis of compensation for the three months immediately preceding the termination. For massive dismissals due to justifiable managerial reasons (such as suspension of production, closure of partial operation, corporate restructuring forced by significant financial distress, etc.), employers must deliver 50 days advance notification to their labor union or any individual representing more than 50% of the total number of employees to consult an intended massive layoff, and must file the intended layoff with the Ministry of Employment and Labor at least 30 days ahead of the intended plan. The

advance notification requirement is aimed at the dismissal of 10 or more employees in a business place having less than 100 employees or 10% of the total employment in a business place having 100~1,000 employees.

Retirement Benefits

In order to pay retirement benefits to retiring workers, the employer shall choose either the retirement allowance system or the retirement pension plan. The option of the retirement benefit scheme or the change of the chosen scheme requires the consent of the majority of labor union or the majority of workers in the absence of labor union. The retirement pension plan requires employers to accumulate and invest the funds for retirement pay into an external financial institution during the worker's period of service. Upon the worker's retirement, the funds shall be paid to the worker as pension or in lump sum. The government launched a corporate pension system in 2005 that requires labor and management to agree on a defined benefit or defined contribution scheme. The pension scheme is mandatory for employers hiring five or more employees. As of February 2012, pension plans had been adopted by 9.8% of business places, covering 38.3% of employees. To further accelerate the transition to corporate pensions, the government will gradually reduce the existing tax benefit for retirement allowance until it is abolished in 2016. From July 2012, companies will be

allowed to adopt both defined benefit and defined contribution plans and to limit the interim payment of retirement allowance. Also, newly created business places will be required from July 2012 to set corporation pensions in their first one year period through the agreement between labor and management.

Work Permits and Visas

Under the Korean Exit and Entry Control Act, a foreigner who wishes to reside in Korea must have a visa which allows an appropriate period of stay (theoretically not less than 91 days but normally six months or longer). If a visa is granted for a period of 90 days or less, it cannot normally be extended beyond such period while the foreigner is in Korea. The extension requirements are waived for a foreign investor who has invested at least USD500,000 under the FIPL with the employment of five or more workers. In some cases, a foreigner who is a citizen of a country with which Korea has entered into a visa abolishment agreement (e.g. the UK) may enter Korea without a visa by obtaining a Visa Abolishment Stamp at the Korean port of entry. However, a foreigner entering Korea by using a Visa Abolishment Stamp, in principle, cannot obtain any visa status and any extension of the period of stay in Korea, nor become a resident of Korea.

Foreigners seeking employment during their stay in Korea must have a work visa, and may only work in workplaces designated by the local or district Immigration Office. If they wish to change

workplaces, permission must be received from the local Immigration Office prior to the change. The appropriate visa status is determined on the basis of the activities to be engaged in by the foreigner. The first alternative is a Technology Inducement Contract (TIC), which has been reported to the relevant ministry under the FIPL. Under this arrangement, employees of the foreign licensor would enter Korea for work under the TIC. Second, expatriates may be dispatched to Korea for work at a foreign entity's branch office in Korea. Third, expatriates may be hired by the Korean company (foreign invested company or joint venture under the FIPL). Certain types of visa status appear to be most suitable for the expatriates who enter Korea (i.e. the E-4 [Technician], D-7 [Commerce], D-8 [Investment], and F-3 [dependant of an expatriate]). A foreigner holding any of these types of visa status may stay in Korea for a period of up to four years.

Korean visas should be obtained from a Korean consulate or embassy in any foreign country with which the Republic of Korea has diplomatic relations. The required documents vary depending upon the applicable visa status. The Korean Consulate concerned may also require additional documents and these documents may be different at each Korean Consulate.

7. Banking and Capital market

Banks

Financial institutions in Korea are classified into five broad groups except for the central bank, Bank of Korea: banks, non-bank financial institutions, insurance companies, financial investment services companies, and financial holding companies. According to the Financial Investment Services and Capital Markets Act of 2009 (FSCMA), there are six types of securities and investment management services collectively referred to as financial investment services: dealers, brokers, discretionary and non-discretionary investment advisors, collective investment managers, and trust service companies. These businesses are collectively referred to as financial investment services companies (FISCs).

Banks are classified as either commercial banks or specialized banks which have been established in accordance with specific individual legislations and supervised by the government and the Bank of Korea. Foreign banks are allowed to establish subsidiaries or branches to engage in commercial banking in Korea. Specialized banks are not open to foreign banks. As of April 2012, there are 56 foreign banks operating in Korea including 39 branches and 17 representative offices.

Non-bank financial institutions include mutual savings banks (MSB), credit unions, and credit-specialized financial companies. Mutual savings banks primarily provide banking services and extend credit to small businesses and house-holds in the regional areas. Credit-specialized financial companies include credit card companies, leasing companies, and factoring companies. Korea's commercial banking system remains sound, liquid and well capitalized although there is concern about the pace of household borrowings. In contrast, residual risks in mutual savings bank require immediate attention and action. MSBs industry has undergone the restructuring. They have been troubled with distressed project finance loans triggered by a prolonged recession in real estate and construction markets.

Securities Market

Korea is the most liquid stock market in Asia. As of the end of December 2011, a total of 1,816 companies including 17 foreign companies were listed on the Korea Exchange with total market capitalization of USD996,140 million and annual trading value of USD2,022,640 million. Foreign investors accounted for 30.6% of the total market capitalization as at the end of December 2011.

Year 2011 (in millions of US dollars)

	Singapore	Taiwan	Korea	Hong Kong	Shanghai	Tokyo
Annual trading value (A)	284,289	887,520	2,022,640	1,444,712	3,670,156	3,986,204
Market cap (B)	598,273	635,506	996,140	2,258,035	2,357.423	3,325,388
Turnover (A/B)	0.48	1.4	2.03	0.64	1.56	1.20

Source: World Federation of Exchange

- Foreign portfolio investment

Under the Financial Investment Services and Capital Markets Act, foreigners are allowed to acquire all securities although there are ceilings on foreign investment as a whole in securities issued by certain companies such as public utility companies, state-run companies, etc. In order for foreigners to invest in domestic securities, they should create an external account exclusively for securities investment and a non-resident KRW account exclusively for securities investment under their own name, register as a foreign investor at the Financial Supervisory Service (FSS) and then get an investor registration number (ID) issued. Foreign investors can purchase domestic securities by designating a permanent agent to place purchasing orders through securities companies.



- **Listing requirements**

There were 17 foreign companies listed in the Korean stock market at the end of December 2011. In principle, listing requirements apply indiscriminately to Korean nationals and foreign nationals alike. An internal accounting control system is compulsory. To be listed on the Korean stock market, a company must satisfy both quantitative and qualitative requirements. Quantitative requirements involve the size of the company, distribution requirement, financial condition, soundness of company, while qualitative requirements cover going concern, management transparency and other requirements to protect investors. The KOSDAQ Market has less stringent listing requirements than the Korea Stock Exchange. The KOSDAQ has three market sections: general business, venture business, and growth venture business. The listing requirements for the venture section are less stringent than the general section.



Financial Hub Policy

The Act on the Creation and Development of a Financial Hub enacted in March 2008 provides a legal framework for the Korean government to implement its financial hub policy with an aim to promote the financial services industry as a new growth engine of the Korean economy and job creation. Subsequent to its enactment, Seoul and Busan were designated as financial centers in 2009 and the Financial Investment Services and Capital Market Act took effect in February 2009. The financial hub policy focuses on establishing a financial hub specializing in asset management and creating financial clusters that attract foreign financial firms and their regional headquarters and professional human resources.

- **Tax incentives in financial hubs**

Effective from May 2010, tax incentives are granted to a new banking or insurance business which is established in a financial hub area designated by the Act on Creation and Development of Financing Hub until the end of 2012, with an exception to the relocation of an existing business place. If the minimum capital requirements of KRW2 billion and 10 or more full-time employees are satisfied, corporate or individual income taxes on taxable income are 100% exempt for the first three years and reduced by 50% for the two subsequent years. With respect to acquisition and property taxes on the

purchase or holding of property to carry on a qualifying business in a financial hub, the tax exemption or reduction rates and period may be determined at the discretion of the concerned local government not to exceed 15 years.

Financial Investment Services and Capital Markets Act

With the implementation of the Financial Investment Services and Capital Markets Act in February 2009, the strictly separated fields within the existing capital market in the finance sector such as securities companies, asset management companies, merchant banks, futures companies, trust companies, etc. have been consolidated. As the Act is designed to facilitate specialization among financial investment services companies and lower entry barriers in the financial investment service industry, it is likely to accelerate competition among financial investment companies as well as the tendency towards consolidation and convergence among players in the Korean financial services industry. It may also enable some financial service companies to seek to take advantage of a greater flexibility and consolidation provided under the Act, which would result in creating globally competitive investment banks.

- **Bank levy**

Korean financial institutions have overcome the global financial crisis without significant damage. To strengthen the financial sector and reduce Korea's vulnerability to external shocks, Korea introduced several measures to improve the resilience of the financial sector to risks from volatile capital flows after the global crisis. One of the measures is a macro-prudential stability levy or bank levy on non-core foreign exchange liabilities of banks, effective from August 2011.

- Introduction of local hedge funds

Hedge funds, specialized private equity funds have been introduced in Korea for the first time since November 2011. It is seen as an innovative development in the Korean capital markets and an acknowledgment of their economic utility. Regulators impose a 400% cap on leverage and derivatives trading of hedge funds against their assets as a way to minimize their potential side effects. There are other similar checks and safeguards on hedge fund risk exposure, counter-party risk and liability risk. Unlike global hedge funds, local hedge funds will start out as regulated entities. As the new funds take hold in the local investment market and become more established, there will be opportunities to take stock of where the market stands and whether more accommodating regulations are warranted.

*Korean financial institutions
have overcome the global
financial crisis without
significant damage.*

8. Setting up an Entity

Prospective foreign investors intending to do business in Korea may choose to establish an entity in the form of subsidiary, branch or liaison office. The table below provides a brief comparative summary of these entities.

	Subsidiary	Branch	Liaison Office
Major governing law	Foreign Investment Promotion Law Commercial Code	Foreign Exchange Transaction Law	Foreign Exchange Transaction Law
Minimum capital requirements at establishment	KRW100 million	<ul style="list-style-type: none">• No requirement.• May induce operating fund from head office	<ul style="list-style-type: none">• No requirement• May induce operating fund from head office
Sales activities	Possible	Possible	Not possible
Loan from overseas parent/head office	Possible	Not possible	Not possible
Repatriation	Dividends distributed to shareholders are subject to tax withholding in Korea	No tax withholding on profit repatriation	Not applicable
Taxable income	Worldwide income	Income attributable to the branch operation	Not applicable
Head office common expenses	Not include in a subsidiary's expenses	May include in the branch's expenses in a certain guidelines	Not applicable
Tax exemption or credit	Applicable depending on the type of business	Not applicable	Not applicable

Type of Entities

In general, a subsidiary may be set up in the form of a stock company (Chusik Hoesa) or a limited company (Yuhan Hoesa). There is no statutory audit requirement for a Yuhan Hoesa. In terms of business operation and Korean tax obligations, however, there is no material difference between these two subsidiary forms except that Yuhan Hoesa cannot issue bonds. A Chusik Hoesa is a corporation incorporated by one or more promoters, with each shareholder's liability limited to the amount of contributed capital. This type of entity is the most commonly used in Korea. A Yuhan Hoesa is a corporation incorporated by one or more members, with each member's liability limited to the amount of that member's contribution to the corporation.

Other types of business entities permitted in Korea include:

- Yuhan Chegim Hoesa, a limited corporation with significantly fewer restrictions for incorporation and operation;
- Hapmyong Hoesa, a unlimited corporation incorporated jointly by more than two members who are responsible for corporate obligations, if the assets of the corporation are insufficient to fully satisfy those obligations;
- Hapja Hoesa, a unlimited corporation composed of one or more partners who have unlimited liability and one or more partners with limited liability; and
- Partnership, a close variant of the American limited partnership.

A joint venture between a foreign investor and a Korean individual or entity which is not a legal entity is generally carried out in the form of Chusik Hoesa or Yuhan Hoesa.

Time and Costs

Setting up a branch office or a subsidiary requires notification of foreign investment to the foreign exchange bank or the government and registration with the foreign exchange bank, the court and the tax office. In general, it takes 2 to 3 weeks to set up a branch office (after receiving all the required documents from the head office) and 4-6 weeks to set up a subsidiary as incorporation requires some additional foreign exchange reporting and the repatriation of paid-in-capital in advance of the court registration.

When setting up a subsidiary, registration tax is applicable at 0.4% (1.2% in the case of incorporation in a metropolitan area) on the total amount of paid-in-capital, while registration tax is not applicable in setting up a branch office. In addition, local education tax is levied at 20% of the registration tax.

9. Audit and Accountancy

Books and Records

Korean Commercial Law requires that accounting records explain the company's transactions and any effects on its operational assets.

These accounting records, except for accounting slips which are required to be retained for 5 years, are normally required to be retained for 10 years.

Accounting Period

The accounting period determines a company's 'financial year'. Each financial year ends on the last day of the accounting period and accounts can be made up to that date. The current commercial law requires a book to be closed at least once a year.

On incorporation, a company may choose an 'accounting reference date' (i.e. the day and month on which an accounting period ends). The accounting period is determined to be a certain period up to accounting reference date which is generally 12 months in duration. Businesses generally have the period 1 January to 31 December as their accounting period. However, a company may adopt a different year-end.



Accounting Standards

Business entities generally follow the accrual basis of accounting in performing recognition, measurement and reporting for accounting purposes. All income realized and expenses incurred or attributable to the current period should be recognized as income or expenses in the current period regardless of when the income is received or expenses are paid.

Financial accounting standards in Korea consist of :

- (1) Korean International Financial Reporting Standards (K-IFRS) that are established by the Korea Accounting Standards Board based on the International Accounting Standards, and all companies listed on Korean capital markets are obligated to apply from 2011;
- (2) Accounting Standards for Non-Public Entities applied by those companies which are subject to the Act on External Audit of Stock Companies but are not mandated to adopt K-IFRS; and
- (3) Accounting Standards for Special Topics established by the Korea Accounting Standards Board in order to reflect requirements of relevant laws and regulations, or to reflect the differences in trading and business environment that are unique to Korea. These accounting standards are limited to particular entities with special forms or accounting treatments, such as 'Corporate Restructuring Investment Company', 'Collective Investment Agency', and 'Trust account of Trust Agent'.

Accounts and Reports

Directors must prepare Basic Financial Statements and Business Reports in each accounting period.

In case of a stock company, the Director must prepare financial statements and business reports approved by the Board of Directors, and shall comply with the following reporting procedures:

- Director must submit financial statements and business reports to Auditor six weeks prior to a regular general meeting.
- Within four weeks of the date of receipt of the above documents, Auditor must submit an audit report to Director.
- Director must submit the financial statements to the general meeting for approval, and report the contents of business reports.

(When certain requirements are met, a company may receive approval from Board of Directors on financial statements, as provided by the Articles of Incorporation.)

A complete set of financial statements which is required in the Commercial Law consists of the followings:

- (a) a statement of financial position as at the end of the period;
- (b) a statement of comprehensive income for the period;
- (c) a statement of changes in equity for the period;
- (d) a statement of cash flows for the period;
- (e) a statement of appropriation of retained earnings ;
- (f) notes, comprising a summary of significant accounting policies and other explanatory information

Audited Financial Statements

According to the Act on External Audit of Stock Companies¹ (AEASC), a stock company which meets one of the following criteria is required to have its financial statements audited by an external auditor:

- A stock company with total assets equal to or greater than KRW 10 billion as of the end of the preceding fiscal year;
- A listed stock company and a stock company which intends to be listed in the relevant business year or the following business year;
- A stock company with total assets and total liabilities each equal to or greater than KRW 7 billion as of the end of the preceding fiscal year;
- A stock company with total assets equal to or greater than KRW 7 billion and with 300 employees or more as of the end of the preceding fiscal year.

In addition to the aforementioned external audit requirements, listed companies should additionally submit external auditor's semiannual review report, and the listed companies with total assets equal to or greater than KRW 500 billion are obliged to disclose external auditor's review and its report on quarterly financial statements.

¹ For the purpose of this law, a stock company refers to a company that is limited by shares.

Appointment of Auditors

Those stock companies which meet the above-mentioned audit requirements should appoint an external auditor within four (4) months from the commencement of each fiscal year, which requires approval from its internal auditor or auditor appointment committee. The appointment should be reported to shareholders at the annual general shareholders' meeting, notified to shareholders in writing or by email, or posted on the company's website.

Korea Stock Exchange- or KOSDAQ-listed companies should appoint the external auditor within four (4) months from the commencement of the fiscal year and sign a 3-year audit contract

Internal Accounting Management System

A company that is listed or has total assets of KRW 100 billion or more as of the end of the preceding fiscal year should establish an internal accounting management system to ensure the reliability of accounting information it prepares and discloses to the public. The internal accounting management system shall include (i) matters related to the identification, measurement, classification, recording, and reporting of accounting information; (ii) matters related to the control and correction of errors in accounting information; (iii) matters related to the internal verification of accounting information such as regular examination and adjustment of accounting information; (iv) matters related to the maintenance of books and records such as control procedures designed to prevent forgery,



alteration, and destruction of accounting information; (v) matters related to the separation of duties between executives/employees in charge of preparing and disclosing to the public accounting information; and (vi) other matters necessary for the preparation and disclosure of reliable accounting information.

The chief executive officer should be responsible for managing and operating the internal accounting management system and designate one of the standing directors to be in charge of the internal accounting management system. Such director must report the operation of the internal accounting management system to the board of directors and the internal auditor on an annual basis. The internal auditor must evaluate the operation of the internal accounting management system and report the evaluation results to the board of directors every fiscal year, and the evaluation report must be kept in the main office of the company for five years. When an external auditor performs an audit, the auditor must review the management's assessment of the company's internal controls over financial reporting and render a review opinion on the internal accounting management system in the audit report.

10. Taxation of Corporations

Corporate Residence

Income taxpayers are classified as follows.

1. Resident corporation — A domestic corporation with its head, main office or place of effective management in Korea, taxed on its worldwide income.
2. Nonresident corporation — A foreign corporation which earns income from domestic sources in Korea, taxed only on income derived from Korea

Tax Rates

The basic Korean corporate income tax (CIT) rates are 10% on the first KRW 200 million, 20% for the tax base between KRW 200 million and 20 billion, and 22% for the excess.

Capital gains from the disposal of non-business purpose land or houses may be subject to additional capital gains tax at rates ranging from 10% to 40% after the above CIT. A resident tax surcharge of 10% on CIT liability is assessed each year.

Agriculture and fishery Surtax

When a corporate taxpayer claims certain tax credits or exemptions under the STTCL, a 20% agriculture and fishery surtax is levied on the reduced CIT liability.

Minimum Tax

Corporate taxpayers are liable for the minimum tax, which is defined as the greater of 10% (to the tax base of up to KRW 10 billion, 11% on the excess up to KRW 100 billion, 14% on the excess above KRW 100 billion) of the taxable income before various deductions and exemptions pursuant to the Special Tax Treatment Control Law (STTCL) applied to arrive at adjusted taxable income or the actual tax after various deductions and exemptions.

For small and medium enterprises (SMEs), the minimum tax is the greater of 7% of adjusted taxable income or actual tax liability.

Taxable Income

Income from all sources (e.g., business income, dividends, rents, interest, royalties, salaries, and profit realized from the sale of property), whether received inside or outside Korea, is subject to income tax, with the exception of the following:

1. Income earned outside Korea by nonresident aliens is not subject to income tax
2. Certain income earned by individuals and corporations in Korea may qualify for tax-exempt treatment under various tax laws

The basic Korean corporate income tax rates are 10% on the first KRW 200 million, 20% for the tax base between KRW 200 million and 20 billion, and 22% for the excess.

• Dividend income

All distributions to shareholders are taxed as dividend income, whether paid in cash or in stock. However, a qualified domestic holding company that owns more than 80% (40% in case of listed subsidiary) share ownership in its domestic subsidiary will receive a 100% deduction for dividends while an 80% deduction is allowed for share ownership of 80% (40% in case of listed subsidiary) or less. A domestic corporation other than a qualified holding company will also receive a 100% deduction for shared ownership of 100%, 50% for more than 50% (30% in case of listed subsidiary) share ownership, and 30% for share ownership of 50% (30% in case of listed subsidiary) or less.

• Interest income

Except for certain cases, all interest income must be included in taxable income. Generally, interest income is included in taxable income as it is received.

• Rents/Royalties income

A company engaged in the business of the rental of real properties is also taxed on the deemed rental income calculated at the financial institutions' interest rate on the lease security money as well as on the recognized rental income. Royalties are considered to be taxable income when earned.

- Foreign income

Resident corporations are taxed on their worldwide income. A Korean company is taxed on its foreign-sourced income as earned at normal CIT rates. To avoid double taxation, taxes imposed by foreign governments on income recognized by a resident company are allowed as a credit against the income taxes to be paid in Korea or as deductible expenses in computing the taxable income. In general, foreign taxes will generally be applied as credit rather than as a deduction.

Income of foreign subsidiaries incorporated outside Korea is not included in the taxable income of a resident company. Income is recognized by a resident company only upon the declaration of dividends from a foreign subsidiary. Therefore, the Korean tax impact may be delayed through deferring the declaration of dividends unless the anti-tax haven rule under the Law for Coordination of International Tax Affairs (LCITA) is triggered.

Korean anti-tax haven rules state that accumulated earnings (distributable retained earnings) of a resident company's subsidiary located in a low tax jurisdiction (i.e. a tax haven where the effective tax rate on the taxable income for the past three years averages 15% or less) are taxed as deemed dividends to the resident company, which has direct and indirect interest of 20% or more in such subsidiary.

- Gains and losses on foreign currency translation

Non-banking companies will be allowed to recognize unrealized gains and losses on foreign currency translation of their monetary assets in a foreign currency. This recognition will be also allowed with respect to currency forward transactions and swaps to hedge foreign exchange risks of such asset. In this regard, a taxpayer can choose whether or not to recognize unrealized gains and losses for tax purposes. Once an election is made, the same method shall be consistently used.

Before FY2011, only banks were allowed to recognize such gains and losses with respect to foreign currency assets and liabilities as well as currency forwards or swaps.

Deductions

In general, expenses incurred in the ordinary course of business are deductible, subject to the requirements for documentary support. A corporation's disbursements of more than KRW 30,000 for goods or services provided are required to be supported by corroborating documents, such as credit card sales vouchers, cash receipts, tax invoices, and those vouchers and invoices stored in the company's ERP system. The corporation is required to maintain these documents for five years. If the corporation fails to maintain proper evidences, a 2% penalty shall be levied on the amount of disbursement.

Accrued expenses are not deductible until the expenses are fixed or paid.

In general, contingent liabilities are not deductible, except for reserves under the following items, which are counted as losses within the tax limit:

- Reserves for retirement allowance.
- Reserves for bad debts.
- Liability reserves and emergency reserves prescribed in the Insurance Business Law.
- Reserves for non-profit organizations.
- Reserves for the write-off of a compensation claim set aside by trust guarantee funds in each business year.

• Depreciation

With the exception of land, depreciation of all property, plant, and equipment (PP&E), which includes buildings, machinery, and auto-vehicles, used to generate income is allowed as a deduction for CIT. Generally, interest on debt acquired to purchase, manufacture, or construct PP&E must be capitalized until the PP&E is operational. This does not apply to the interest associated with the expansion or improvement of existing PP&E. A detailed list of fixed assets, gross values (including capitalized interest),

the useful lives of the assets, and the current year's depreciation charge must be submitted to the tax authorities when filing the annual CIT return.

The tax law allows the following methods for calculating depreciation:

- Straight-line or declining-balance method for tangible fixed assets, other than plant and buildings.
- Straight-line method for plant, buildings, and intangible assets.
- Service-output or straight-line method for mining rights.
- Service-output, declining-balance, or straight-line method for tangible fixed assets used in mining.

Depreciation is allowed for tax deduction only when expensed for book purposes. However, in order to alleviate any significant increases in tax burden due to decreased depreciation expenses through the adoption of K-IFRS, additional expense deduction through tax adjustment may be allowed on a temporary basis. For tax purposes, depreciable assets acquired on or before 2013 may be depreciated at the rate equivalent to the average of three years before the adoption of K-IFRS. Depreciable assets acquired after 2014 may be depreciated using the tax useful life.

• Goodwill

Goodwill for tax purposes is defined as “value transferred with consideration, apart from transferred assets included in business transfer, valued by taking into account business premium factors of the transferor such as permission/license, legal privileges, geographical advantages, business secrets, credit, reputation, transaction partners, etc.” Goodwill may be amortized over five years using the straight-line method for tax purposes.

- **Organizational and start-up expenses**

Start-up expenses such as incorporation expenses, founders' salary, and registration fees and taxes are deductible when the expenses are actually paid.

- **Interest expense**

Interest incurred in the ordinary course of business is deductible as long as the related loan is used for business purposes. There are, however, a number of exceptions to the general rule. For example, if borrowings from a foreign shareholder, or from a third party under a payment guarantee by the foreign shareholder, exceed three times the equity of the relevant foreign shareholder, the paid interest and discount fee as to the relevant excessive portion will be treated as a dividend payment and not allowed as a deduction.

- **Bad debts**

A doubtful accounts reserve is allowed for tax purposes up to 1% (2% for certain financial institutions) or the previous year's ratio of actual loss from bad debts to total balance of account receivables at year-end. Actual losses on bad debts are allowed when certain legal proceedings are satisfied or the statute of limitations has lapsed. Although companies could set aside bad debt allowances based on reasonable estimates under the old generally accepted

accounting principles (K-GAAP), the new GAAP for non-K-IFRS users and K-IFRS users requires objective evidence to recognize the allowance. This stricter rule is expected to create disproportionately higher taxable income on the first year of adoption.

- **Charitable contribution**

Donations to public interest entities, such as government authorities and social welfare organizations, as well as donations for academic research, technical development, etc., are tax-deductible up to 50%~10% of the total taxable income for the concerned fiscal year after deduction of net operating loss (NOL). The amount in excess of such limit may be carried over for three or five years. Donations other than the statutory donations above will not be deductible for tax purposes.

- **Employee remuneration**

There is no statutory limit for employee remuneration, which includes salaries, wages, stipends, bonuses, retirement payments, pensions, and meal and housing allowances as well as all other kinds of subsidies, payments, and compensation. Remuneration of foreign employees is determined according to their engagement contracts.

- Pension expense

For tax purposes, severance allowance may be deducted up to 5% of the annual total amount of wages paid. However, the accumulated amount of the severance allowance reserve may not exceed 25% of the actual aggregate liability to employees. This deduction limit would be reduced by 5% every year to be entirely eliminated in 2016. If a corporation subscribes to severance insurance with an insurance company to cover future payments of retirement allowances, additional tax deductions beyond the limits described above are available. Employers hiring five or more employees are required to set aside retirement pensions for their employees. Under the defined contribution scheme, premiums paid by the employer will be deductible upon payment while the reserve under the defined benefit scheme would be deductible subject to the limit, similar to the existing severance insurance.

- Entertainment expenses

Entertainment expenses in excess of the limits set by the tax law are not deductible. In addition, entertainment expenses of more than KRW 10,000 on an event basis must be supported by corporate credit card vouchers, cash receipts, or tax invoices in order to be deductible. In addition, the entertainment expenses in excess of the tax limit are not deductible.

- Insurance premiums

Insurance premiums paid to an insurance company are deductible if the business enterprise is the listed beneficiary. Insurance premiums for which the beneficiary is the employee are also deductible; however, they are treated as salaries for the employees and are subject to withholding tax on earned income (this excludes the severance insurance premium or social security taxes that are borne by the corporations).



Thin Capitalization Rules

In cases where a Korean company borrows from its controlling shareholders overseas, an amount greater than three times its equity (six times in the case of financial institutions), interest payable on the excess portion of the borrowing is characterized as dividends to which the article on dividends in tax treaty applies and therefore are treated as non-deductible in computing taxable income.

Net Operating Losses (NOL)

In general, a NOL carryover is allowed for ten years for fiscal years commencing after 31 December 2008 (five years for the prior years). Along with the extension of the NOL carryforward period from five years to ten years, when a taxpayer uses the NOL incurred more than five years ago, the statute of limitation shall be one year from the filing due date of the fiscal year when the NOL is utilized. Generally, loss carrybacks are not allowed. However, SMEs can carryback a NOL for one year.



Tax Administration

• Returns

The taxable year is on a fiscal-year basis as elected by the taxpayer. However, it cannot exceed 12 months. A corporation must file an interim tax return with due payment for the first six months of the fiscal year and the filing/payment must be made within two months after the end of the interim six-month period. An annual tax return must be filed within three months from the end of a fiscal year.

- **Consolidated tax return**

The consolidated corporate tax filing system can be adopted for a domestic corporation in cases where two or more wholly-owned subsidiaries exist. It is up to the election of the taxpayer, but it cannot be revoked for at least five years after election.

- **Statute of limitations**

The statute of limitations is generally five years from the statutory filing due date of the annual CIT return. However, the statute of limitation shall be 10 years if a taxpayer evades taxes by fraud or unjustifiable means and seven years for the failure to file the tax base by the statutory due date.

Along with the extension of the NOL carryforward period from five years to ten years, when a taxpayer uses the NOL incurred more than five years ago, the statute of limitations shall be one year from the filing due date of the fiscal year when the NOL is utilized.

- **Audit cycle**

For large companies with sales revenue of KRW 500 billion or more, the tax audit will be conducted every five years. Other companies are selected by certain standards released annually by the National Tax Service. Topics of focus for tax authorities may include transfer pricing on cross-border transactions, offshore tax evasion through aggressive tax planning,

denial of unfair transactions between related parties (domestic transfer pricing), embezzlement through fictitious expenses or tax evasion using subcontractors, and management service fees or allocated expenses incurred by foreign affiliates.

- **Penalties**

The penalty for the failure to file a tax return in a timely manner or maintain adequate records is equivalent to 20 percent of the calculated tax or 0.07 percent of gross revenue, whichever is greater. Understatement of income in filing a tax return is subject to a penalty of 10 percent of the additional income tax attributable to the understated taxable income. In cases where the understatement of income in filing a tax return is caused by unjustifiably means such as false records or fraud, the penalty increases to 40 percent of the calculated tax or 0.14 percent of such gross revenue, whichever is greater. Interest is charged at the rate 0.03 percent per diem for nonpayment or insufficient payment of corporate income tax. Failure to withhold taxes or to pay withheld taxes by the due date results in 3 to 10 percent penalty, depending on the number of days the payment was delinquent.



Tax Holidays

Under the Special Tax Treatment Control Law (STTCL), the most common types of tax holidays in Korea are tax reductions or exemptions for foreign-invested corporations as well as certain small & medium size enterprises (SMEs) and tax credit to promote research and development activities (R&D tax credit). Also, tax incentives relevant to international capital transactions are available.

In addition, tax incentives to facilitate restructuring of corporations and financial institutions, promote job creation and encourage the relocation of head offices or factories in urban cities to rural areas are also available. Temporary tax holidays are introduced from time to time based on government policy.

Tax Credit for Small and Medium-sized Enterprises

Various tax incentives are granted to small and medium-sized enterprises (SMEs). One of major incentives for SMEs is a special tax credit which ranges from 5% to 30% of taxable income, depending on the size, type of business and location in a metropolitan or non-metropolitan area. Also, 3% of the acquisition cost is deducted from corporate income tax for the acquisition of business assets such as machinery and equipment, facilities for the point-of-sales data management system and facilities used for information protection system. In addition, newly incorporated SMEs in non-metropolitan areas are given a 50% reduction in corporate income tax for the first four years.

Foreign Tax Credit

Taxes imposed by foreign governments on income recognised by a resident taxpayer are allowed as a credit within the limit against the income taxes to be paid in Korea, or as deductible expenses in computing the taxable income. In general, foreign taxes will be applied as credit rather than as a deduction. The excess foreign tax credit can be carried forward for five years.

Tax Credit for Job-creating Investment

The tax credit rate for job-creating investment has increased to 5%~7% since January 2012, including 3%~4% tax credit for a company maintaining a status quo employment and an additional 2%~3% tax credit for new job –creating investment. The additional tax credit for job creation shall not exceed the ceilings set at KRW 10 million (or KRW 15 million per employee between the ages 15 and 29 or KRW 20 million per specified occupational high school graduate employee) multiplied by the number of net new employment.

Research and Development (R&D) Tax Credit

Various tax incentives are provided to stimulate R&D activities including deduction of R&D reserve, tax credit for research, and manpower development expenses. Companies may claim a tax credit in relation to qualifying R&D expenditure as follows: (i) 3% to 6% (25% for SMEs) of the current R&D expenses or (ii) 40% (50% for SMEs) of the incremental portion of the current R&D expenses over the average of the previous four years. In addition, a tax credit (up to 10% of investment amount) is available for investment in facilities for technology and human resources development. The unused tax credit can be carried forward for five years.

Investment Incentives

Tax credits are generally available for qualified investment in facilities for productivity enhancement, safety, job-creating investments, etc. For example, 10 percent of investment made in energy-economizing or conservation facilities no later than December 2013 shall be deducted from corporate income tax. The unused tax credit can be carried forward for five years.

FDI Tax Incentives

- **High-technology businesses**

Foreign invested companies that engage in certain qualified high-technology businesses and service businesses having extensive industrial supporting effect can apply for 100% exemption from corporate income tax for five years, beginning from the first year of profitable operations (from the fifth year, if not profitable until then) and a 50% reduction for the following two years in proportion to the foreign shareholding ratio. An exemption from withholding tax on dividends is available for foreign investors in the same manner as above during the same grace period. In addition, the taxpayer can apply for 100% exemption from local taxes, such as acquisition tax, registration tax, and property tax on assets acquired for their business for five years after the business commencement date and 50% reduction

for the following two years. For local tax exemption, some local governments grant longer exemption periods (up to 15 years) in accordance with their local ordinances. Qualified foreign investment also can be eligible for exemption from customs duties, VAT, and special excise tax on imported capital goods for the first three years.

- **Special zones**

In addition, foreign investors satisfying specified criteria are provided with tax incentives and other benefits for investment in specially designated areas, including foreign investment zones (FIZ), free economic zones (FEZ), free trade zones (FTZ), and strategic industrial complexes exclusively developed for foreign invested companies. The tax incentives for qualifying foreign investors in FIZ are similar to those of the above foreign invested high-tech companies. Qualifying investors in FEZ, FTZ, and strategic industrial complexes may receive 100% exemption from corporate or individual income tax as well as local taxes for the first three years and 50% reduction for the next two years. An exemption from withholding tax on dividends is granted to qualifying foreign investors in FEZs, FTZs, and such industrial complexes in the same manner as above during the same grace period. They also receive exemption from customs duties on imported goods for the first three years.

FDI tax Incentives are subject to a ceiling which has been established to encompass both investment amount and job-creation. In terms of investment amount, the level of incentives for FDI has been reduced to 70% of the aggregated FDI amount for companies benefiting from a 7-year incentive period (50% ceiling for companies enjoying a 5-year incentive period). In terms of job-creation, the level of incentives for FDI has been reduced to the lower of either 20% of the aggregated FDI amount or KRW 10 million times the company's net increase in employment.

Companies that have enjoyed tax benefits based on job-creation will be subject to tax assessment in cases where there is a net decrease in employment within the subsequent two years in comparison to the year that the relevant tax credit was obtained.

Anti-tax Haven Rules

In cases where a Korean company invests in a company located in a tax haven, which unreasonably has reserved profits in the controlled foreign company, the profits reserved therein shall be treated as dividends paid out to that Korean company (individual), despite the fact that the reserved profits are not actually distributed.

Anti-tax haven rules are intended to regulate a company that has made overseas investments of an abnormal nature. Thus, these anti-tax haven rules apply to those Korean companies that have invested in a company incorporated in a foreign country with an average effective tax rate of 15% or less on taxable income for the past three years. However, if a company incorporated in such a tax haven country actively engages in business operations through an office, shop, or a factory, then the anti-tax haven rules will not apply.

Related Party Transactions (Domestic transfer pricing)

Under the provision of CITL, the tax authorities may recalculate the corporation's taxable income when CIT is unreasonably reduced due to transactions with related parties. Generally, if the discrepancy between the transaction price and fair market value exceeds 5% of the fair market value or KRW 300 million, the transaction will be subject to this provision.

Transfer Pricing Regulations

Korean transfer pricing regulations were formally introduced when the LCITA came into force in January 1996. As Korea is a member of the OECD, the Korean transfer pricing regulations are fairly consistent with the OECD Guidelines.

Under the LCITA, the arm's-length principle is emphasized in determining the proper level of prices charged in transactions between Korean resident corporations and overseas related parties. The LCITA defines the arm's length price as a price established, or that can be expected to be established, in a normal transaction between independent third parties having no special relationship. Any of the following situations can be recognized as a special relationship:

1. Where a foreign company directly or indirectly owns 50% or more of the voting shares of a Korean company.
2. Where a Korean company directly or indirectly owns 50% or more of the voting shares of a foreign company.
3. If a corporation (or an individual), which directly or indirectly owns 50% or more of the voting shares of a foreign company or directly or indirectly holds 50% or more of the voting shares of a Korean company.
4. If one transaction party (“Company A”) substantially controls the business policy of the other transaction party (“Company B”) or vice versa or both parties share the same interest.
5. If the same third party substantially controls the business policy of both Company A and Company B, both parties share the same interest.

The LCITA further provides the transfer pricing methods to be applied in determining the arm’s length price.

1. Comparable uncontrolled price (CUP) method
2. Resale-price method (RPM)
3. Cost-plus (CP) method
4. Profit-split method (PSM)
5. Transactional net margin method (TNMM)
6. Other reasonable method

The definitions of the methods listed above are basically the same as those described in the OECD Guidelines. Selecting the most reasonable method to be used shall be based on the given facts and circumstances.

Documentation Requirements

The LCITA requires taxpayers engaging in transactions with overseas related parties to submit three primary types of transfer pricing form as below when filing their tax returns.

1. Declaration of Transfer Pricing Method for intercompany transactions involving tangible goods, intangibles and services.
2. Disclosure and justification of transfer pricing method.
3. Summary of income statements of overseas related companies.

When requested by the tax authorities, a taxpayer must submit the required information within 60 days from the date of request. If the taxpayer cannot submit the required documents by the submission due date due to certain causes prescribed in LCITA, the taxpayer may request a one-time 60-day extension by applying for the extension 15 days before the original submission due. In addition, LCITA allows the tax authorities to request a taxpayer to submit related information, if deemed necessary for enforcement.

1. Various relevant contract documents concerning the transfer or purchase of assets.
2. Price list of products.
3. Statement of manufacturing costs.
4. Specification of trades by item (discriminating between the related parties and the unrelated parties.)
5. Documents corresponding to subparagraphs 1 through 4, in the cases of provision of services or other trades.
6. Organizational chart of a corporation and a table of division of office duties.
7. Data for determination of the international trade prices.
8. Internal guiding principles for pricing among related parties.
9. Accounting standards and methods for the relevant trades.
10. Details of business activities of the parties involved in the relevant trades.
11. Current status of mutual investments with related parties.

12. Forms or items omitted at the time of returns on the corporation tax and income tax.
13. Materials with which it is possible to grasp the details of a transaction in connection with a service transaction under Article 6-2, as specified by Ordinance of the Ministry of Strategy and Finance.
14. Materials specified further by Ordinance of the Ministry of Strategy and Finance including an agreement on cost allotment in connection with the tax adjustment by the allotted arm's length cost under Article 6-2 of the Acts.
15. Other data necessary for computing the adequate prices.

Corporate Income Tax Adjustment

If the tax authorities adjust transfer prices between a Korean company and its foreign affiliates based on the arm's length price which results in an increase in the taxable income of the Korean company and the amount of the adjustment is not repatriated back to Korea within a specified time period, certain secondary adjustments may be applicable such as treatment as deemed dividends, contribution of paid-in capital, etc. in addition to the corporate income tax assessment thereon.

Penalties

Penalties may be imposed against understating the tax base or against underpayment, nonpayment or insufficient payment of tax. Penalties vary depending on the type of obligation the taxpayer failed to fulfill.

Penalty tax on the under-reported tax base (the difference between the correct tax base, which should have been reported under CITL, and the tax base actually reported at the time of filing the tax return) shall be as follows:

(1) In cases where the total reported tax base has been intentionally reduced, the penalties shall be the larger of: (a) 40 percent of the corporate income tax corresponding to the total under-reported tax base or (b) 0.14 percent of the total under-reported tax base.

(2) In cases other than (1) mentioned above, the penalties to be imposed shall be 10 percent of the taxes on the under-reported tax base. If there is no tax calculated, however, no penalties will be imposed. Penalty for non-payment or insufficient payment is determined by applying the interest rate of 10.95 percent per annum prescribed by the CITL.

The LCITA also levies sanctions against noncompliance with a request for submission of information.

If a taxpayer is required to submit transfer pricing related information but fails to do so within the due date without any justifiable reason or submits false information, the taxpayer may be subject

to a fine for negligence of up to KRW 100 million. Furthermore, the failure to comply with a request for submission of information may increase the chances of a transfer pricing audit.

Penalty relief for taxpayers maintaining contemporaneous transfer pricing documentation

The underreporting penalty could be waived on transfer pricing adjustments when the results of competent authority procedures demonstrated that the taxpayer was not liable for the difference between the transfer prices applied and the arm's length price and also be waived if a taxpayer properly prepares and maintains transfer pricing documentation at the time of filing the corporate income tax return, and the transfer pricing method was reasonably selected and applied.

A taxpayer wishing to obtain penalty relief should maintain the following documentation and submit the documentation within 30 days when requested by the tax authorities:

1. General descriptions of the business (including analysis of the factors that may affect the price of assets and services)
2. Information that may affect the transfer price, including information on foreign affiliates and their relationship with the taxpayer (group organization structure)

3. The following documentation which supports the selection procedure of the transfer pricing method when request economic analysis and forecast data supporting the selection of the most reasonable transfer pricing method stated at the time of filing the corporate tax return
 - A. Profitability of the selected comparable companies and the descriptions of adjustments applied during the analysis of the arm's length price. Descriptions of other potential transfer pricing methods and the reasons why these transfer pricing methods were not applicable.
 - B. Additional data prepared to determine the arm's length price after the end of the tax year and within the filing period of the corporate tax or income tax return.

Advance Pricing Approval

Two types of APAs are available in Korea: unilateral and bilateral. Bilateral APAs are approved through mutual agreement between competent authorities. Unilateral APAs are approved by the head of the NTS.

Taxpayers wishing to obtain an APA for transactions with its foreign affiliates should submit an application for an APA to the NTS by the end of the first fiscal year to be covered by the APA. Bilateral APAs may be rolled back for up to five years while unilateral APAs may be rolled back for up to three years.

Taxpayers obtaining an APA are required to file an annual report which demonstrates that transfer prices were determined by the method agreed upon under the APA within six months of the annual tax return submission due date.

Mutual Agreement Procedures (MAP)

If a Korean resident individual or domestic company, which is a nonresident individual or a foreign company with PE in Korea, requests that its tax dispute be resolved through consultation between the competent authorities under an applicable tax treaty, the Minister of Strategy and Finance or the Commissioner of the NTS shall initiate mutual agreement procedures (MAP). MAP can be invoked in the following cases:

1. Where it is necessary for Korea to consult with foreign competent authorities with respect to the application and interpretation of the tax treaty.
2. Where a Korean resident is subject to taxation in a foreign country contrary to the tax treaty concerned.
3. Where it becomes necessary for the competent authorities of the two countries to adjust the taxable income of a taxpayer.

Once MAP is initiated, the taxpayer will be allowed to postpone the filing of an appeal until MAP is completed. Furthermore, if MAP is initiated under an applicable tax treaty, the collection of national and local taxes and the amount of associated interest can be postponed.

Harmonization of Transfer Pricing & Customs

The Korean transfer pricing regulations and customs law were amended at the end of December 2011. Under the amended regulations, taxpayers subject to transfer pricing adjustments (corporate tax) or adjustments to transaction value (customs duties) may request reviews to obtain “corresponding adjustments”. This will be effective on adjustments made on or after July 1, 2012 when the Review Committee is established.



11. Taxation of Foreign Corporations/Shareholders

General

A corporation having its head office or principal office in Korea is a resident corporation. A corporation with a place of effective management in Korea is also treated as a resident corporation.

Foreign corporations with income derived from sources in Korea are subject to corporate income tax on such income. If the foreign corporation has no “domestic place of business” in Korea, it will be subject to tax on its Korean-source income on a withholding basis in accordance with the tax laws and any applicable tax treaty. Any Korean source income attributable to a domestic fixed place of business of a foreign corporation will be subject to Korean income tax.

Permanent Establishment (PE)

A non-resident corporation is generally deemed to have a tax presence (i.e. PE) in Korea if one of the followings applies:

- It has any fixed place of business in Korea, where the business of the entity is wholly or partly carried on.
- It is represented by a dependent agent in Korea, who has the authority to conclude contracts on its behalf and who has repeatedly exercised that authority.
- Its employee(s) provides services in Korea for more than six months within 12 consecutive months.
- Its employee(s) continuously or repeatedly renders similar services in Korea for two or more years, even if each service visit is for less than six months within 12 consecutive months.

Exceptions to a PE in Korea for a non-resident corporation include fixed places of business used only for purchasing or storage of property at which no sales activities, advertising, publicity, collecting, or furnishing of information, or other activities that are preparatory or auxiliary to the conduct of business, occur.

Dependent Agent PE

Generally, an agent of a foreign corporation who habitually exercises authority to conclude contracts (including consulting or negotiating important terms and conditions of the contract) in the name of the foreign corporation or who maintains a stock of goods or merchandise in Korea belonging to a foreign corporation from which the agent regularly fills orders on behalf of the foreign corporation will be deemed to be a PE of the foreign corporation in Korea.

Branch Income

In general, a branch office of a foreign corporation is taxed in the same manner as resident companies.

Remittance of retained earnings from a Korean branch to its head office is subject to reporting to a designated foreign exchange bank in Korea under the Foreign Exchange Transaction Law. If the tax treaty between Korea and the country in which a foreign corporation resides allows the imposition of a branch profits tax, the tax is imposed on the adjusted taxable income of the Korean branch. Where applicable, the branch profit tax is levied in addition to the regular corporate income tax, which is imposed at the rate of 20% (or at a reduced rate as provided in a treaty) of the adjusted taxable income of the Korean branch

Withholding Taxes

Foreign corporations with income derived from sources in Korea are subject to corporate income tax on such income. If the foreign corporation has no 'domestic place of business' in Korea, it will be subject to tax on its Korean-source income on a withholding basis in accordance with the tax laws and the relevant tax treaty, if applicable. Any Korean-source income attributable to a domestic fixed place of business of a foreign corporation will be subject to Korean corporate income tax.

For residents of countries with a tax treaty with Korea, the reduced withholding tax rates could be applied. To apply treaty rate, starting from July 1, 2012, an application form should be submitted to the withholding agents and, if a beneficiary could not be identified in the application form, the withholding agents should withhold the tax at a non-treaty rate.

For withholding tax rates for dividends, interest and royalties, received by non-resident corporations and individuals, please refer to Appendix I on page 104.

If a foreign company is located in a foreign jurisdiction designated as a tax haven by the Minister of Strategy & Finance, any Korean-source income of such foreign company will be subject to the domestic withholding rate of 20% regardless of whether or not the foreign company is resident of a treaty country. Currently, only Labuan is designated as such a jurisdiction. The foreign company may claim a refund of any excess withholding tax paid within three years, if it demonstrates to the Korean tax office that it is entitled to the reduced treaty rates as the substantive and beneficial owner of the income. Alternatively, a foreign company may attempt to seek a pre-approval in order to have the treaty benefits apply upfront by making an application to the Commissioner of Taxation.

Requirement to submit application for tax treaty reduced rates

From July 2012, in order to enjoy a reduced withholding tax rate on the income, the foreign corporation to which Korean sourced income is attributed (i.e. the beneficial owner) must submit an application for a reduced rate under tax treaty to the domestic entity paying the income. Also, a foreign investment vehicle (e.g. private equity fund) earning Korean sourced income must submit a report, including a statement of beneficial owner(s), to the domestic entity paying the income. The application/report should be submitted to a domestic entity before the Korean sourced income is paid. If the domestic entity does not receive the application/report or cannot identify the beneficial owner of Korean sourced income based on the submitted documents, withholding tax should be withheld at the domestic rate. The beneficial owner of Korean sourced income can apply for a refund of overpaid withholding tax within 3 years.

Tax Structuring

A change in the shareholding of a domestic corporation has no effect on the basis of computation of taxable income. From the shareholder's point of view, in cases of dissolution of a corporation, merger or split-off, if the shareholder receives proceeds that exceed costs, the excess amount will be deemed as a dividend and subject to income tax.

• Asset acquisition

Asset acquisition may take the form of a business transfer, which is defined as a “comprehensive transfer of all the rights and obligations of a transferor related to the business” under the tax law. In cases where a transferee acquires only a portion of the target business assets or liabilities, it is usually called an “asset transfer” which is not considered a comprehensive business transfer. Generally, the seller in a comprehensive business transfer is not required to charge 10 percent VAT for the assets transferred to the buyer. This is because a comprehensive business transfer is generally not regarded as the supply of goods for VAT purposes. However, the asset transfer is generally subject to 10 percent VAT. Interest on loans borrowed for the purpose of funding for asset acquisition can be expensed when incurred.

Acquisition tax is levied on the purchase price of real estate, motor vehicles, ships, construction equipment, and mining and fishery rights, etc. The standard rate is 2.2 percent (including surtax) on the

acquisition cost but the rate will increase to 6.6 or 11 percent (including surtax) for the acquisition of real estate in the Seoul metropolitan area and real property for non-business purposes.

Registration tax ranging from 1.2 to 6 percent (including surtax) on the value of assets such as real estate, motor vehicles, certain construction equipment and aircrafts, etc. would be imposed at the time of registration of a change in ownership.

• Share acquisition

If a shareholder and its related parties collectively become a controlling shareholder in a Korean company (i.e. holding more than 50 percent of the shares) deemed acquisition tax may apply. In this case, the acquirer is deemed to be indirectly acquiring assets of the corporation that would be subject to the asset acquisition tax (i.e. land, buildings, vehicles, golf memberships, etc.). The deemed acquisition tax (including surtax) is calculated by multiplying the book value of the above-mentioned assets by the applicable tax rate (2.2 percent or 11 percent) and then multiplying the result by the acquirer's share ownership in the Korean company. The deemed acquisition tax is applied to the increased portion of ownership every time the share ratio of a shareholder with more than 50 percent ownership of a corporation is increased (i.e., when a shareholder with more than 50 percent acquires additional shares).

- **Mergers**

Capital gains resulting from the transfer of a business or from the merger of two or more corporations are included in the taxable income of the transferor or the merged corporation. Where the proceeds received by the merged and dissolved corporation's shareholders exceeds the acquisition costs of such shares, the difference will generally be deemed as a dividend subject to income tax.

- **Split-off (*Injuk-boonhal*)**

A split-off is defined as the separation of a corporation's business division to a new entity as a subsidiary of that corporation's parent or shareholders. The excess portion of compensation paid to shareholders over their acquisition cost will generally be deemed as a dividend subject to income tax.

- **Spin-off (*Muljuk-boonhal*)**

A spin-off is defined as the separation of a corporation's business division to a new entity as a subsidiary of that corporation. In the case of a spin-off, if the consideration for the transferred assets and liabilities to the new corporation exceeds the book value of the parent corporation, such gains would normally be treated as taxable income for the parent company. However, if the requirements for a qualified spin-off are met, taxation may be deferred until the relevant shares are transferred.

- **Liquidation**

Basically, liquidation income of domestic corporations is subject to corporate income tax at regular tax rates. A final tax return must be filed within three months from the final settlement. Liquidation income taxation is not applicable to changes in organizational structure. Liquidation income of Korea branches of foreign corporations is not subject to tax.

12. Partnerships and Joint Ventures

Partnerships

• Entities Affected

The following entities are entitled to elect partnership taxation which was enforced in January 2009:

- (a) An association (Johap under the Civil Law)
- (b) An anonymous association (Hapja Johap or Ikmyong Johap under the Commercial Code)
- (c) An unlimited corporation (Hapmyong Hoesa or Hapja Hoesa under the Commercial Code)
- (d) Other similar groups mostly rendering personal services under some special law:
 - Association: legal association
 - Unlimited corporation: legal, patent and labor firms and joint corporations of judicial agents
 - YH corporation (Yuhan Hoesa): legal, accounting and customs firms

• Application for the Treatment or Waiver

A partnership is required to file an application or waiver form with partnership agreement to the concerned tax office before the first day of taxable year when the partnership taxation is to be applied or waived. Once elected, it cannot be waived for five years from the date the application is filed. If the treatment is to be effective from the first taxable year after incorporation/association, an application needs to be filed within one month from the first day of the first taxable year.

Taxation

A partnership entitled to this treatment is not subject to corporate income tax on its income. Instead, each partner is subject to corporate income tax or individual income tax with respect to the relevant share of the profit.

- **Allocation of Profit or Loss**

Partners are categorized into four partner groups (resident, non-resident, domestic corporation and foreign corporation). Profits or losses are calculated by each group and allocated to partners according to its profit/loss allocation ratio on the closing day of taxable year. However, passive investment partners are excluded from the allocation of losses.

Losses are allocated on the closing day of the taxable year up to the outside basis. Losses exceeding the outside basis may be carried over for up to ten years and may be offset with future outside basis of the relevant partner.

Partners regard their distributed profit or loss as income or loss under Individual Income Tax Law or Corporate Income Tax Law. However, a passive investment partner's income is considered as dividend income. They are included as individual income and corporate income tax base for the concerned taxable year.

Transactions between Partnership and Partners

In cases where a partner trades with a partnership but not as a partner, the partner and partnership include the transaction's profit/loss as gain/loss when calculating the taxable year's income. In this case, the partnership and the partner are considered related parties. When a partnership or a partner reduces their income in an unjust manner, the Denial of Unfair Transactions rule under the Corporate Income Tax Law (Article 52) will be applicable.

Transfer of Partnership Share and Asset Distribution

- **Outside Basis Adjustment**

When a partner buys, inherits or gives shares of a partnership as a gift, or when a partner receives a share of partnership's income in a partnership, the partner's outside basis is adjusted upward.

- **Transfer of Partnership Share and Asset Distribution**

When a partnership's share is transferred to another party, it is considered to be a transfer of stock. Capital gains are calculated by considering the outside basis as acquisition cost and any gain is subject to capital gains tax or corporate income tax.



The balance sheet, income statement and outside basis adjustment statement must all be attached.

Reporting Obligation of Partnership Tax Return

A partnership is required to report the taxable year's income and distribution return to the relevant tax office by the 15th day of the third month after the closing day of each taxable year. The balance sheet, income statement and outside basis adjustment statement must all be attached. In cases where a partnership fails to file the return, a penalty of 4% for non-reporting and 2% for under reporting will be imposed on the income, respectively.

Joint ventures

Joint ventures are usually in the corporate form (Chusik Hoesa or Yuhan Hoesa) and are taxed accordingly. A joint venture between Korean and foreign investors is eligible for certain tax exemptions available under the Special Tax Treatment Control Law.



13. Personal Income Taxation

Territoriality and Residence

A taxpayer in Korea, who is liable to pay the income tax on his/her income, is classified into Resident and Non-resident for income tax purposes, as listed below.

- **Resident** – Any individuals having a domicile or residence within Korea for a year or more, individuals having an occupation that would generally require them to reside in Korea for a year or more, or individuals whose families accompany them to Korea and who retain substantial assets in Korea. Effective as of the 2009 tax year, foreign residents who have stayed in Korea for longer than five (5) years during the last ten (10) year period are taxed on their world-wide income. However, foreign residents who have stayed in Korea for five (5) years or less during the last ten (10) year period are taxed on Korea-source income and foreign source income as well only if the foreign source income is paid by a Korean entity or transferred to Korea.
- **Non-resident** – An individual who is not deemed to be a resident. Should a foreigner be classified as both a resident of Korea and a resident of the home country, the tax rights of each country are in direct competition with the other. In that case, the primary country of residence is selected in accordance with the provisions regarding determination of residency under the tax treaty between the two countries. A non-resident is subject to income tax only on income derived from sources within Korea.

When a non-resident who does not have a domestic place of business has Korea-source income to report through an annual tax return, most of the provisions concerning the tax base and tax amount of residents shall apply to him/her. However, in calculating taxable income and tax amount, a non-resident is not entitled to claim personal exemptions (except for themselves) and the special deduction.

Employment Income

Although the legal terminology for the classification of employment income has been deleted in the revised tax laws effective as of the 2010 tax year, employment income can be classified into Class A or Class B income, depending on the income source.

• Class A Employment Income

Employment income received from a domestic (Korean) corporation or a Korean office of a foreign corporation for services rendered in Korea. Such income is subject to payroll withholding taxes on a monthly basis.

• Class B Employment Income

Employment income received from a foreign corporation outside Korea. However, even if foreigners who work in Korea are paid their wages overseas, the wages are considered Class A employment income rather than Class B employment income where the wage is deducted as an expense in calculating the taxable income of a permanent establishment (PE) of the foreign corporation in Korea. The employer is not required to withhold Korean taxes at the time of payment of Class B income; however, the individual is required to declare this income annually and pay income taxes thereon on a voluntary basis.

Special Tax Concession for Foreigners Working in Korea

Foreign expatriates and employees would be able to apply for a flat income tax rate of 16.5% (including resident surtax) on their employment income until the end of December, 2012. In this case, any other income deductions, tax exemption, and tax credit would be forfeited. If a foreign expatriate or employee wants to choose the 16.5% flat tax application, he/she is required to submit an application to the Korean tax authorities at the time of filing the annual tax return or to their employer at the time of year-end settlement. A foreign expatriate or employee can choose the 16.5% flat tax rate as a monthly employment income withholding tax rate with submission of an application to Korean tax authorities from April 2011 till the end of December, 2012.

Non-taxable Items of Employment Income

The following elements of employment income are non-taxable:

- Housing (not hotel) and related costs paid by an employer directly to a landlord on behalf of an employee. However, utility costs paid by an employer are taxable to the employee.
- Reimbursement of business expenses, including social membership costs and entertainment expenses incurred by an employee for business purposes.
- Cost of an automobile and driver and related maintenance and insurance expenses offered by an employer, provided the automobile is contracted in the name of the employer.
- Reimbursement of operating costs for a personal automobile used for business purposes, up to ₩200,000 per month.
- Relocation and moving expense reimbursements.
- Reasonable amounts of employer-reimbursed home-leave travel expenses for expatriate employees.
- Pay of up to ₩1,000,000 per month receivable from furnishing service overseas.
- Meal costs of ₩100,000 or less per month in case meals are not provided by an employer.

Equity Compensation

There is no taxable event at grant or on the vesting date of stock. The spread between the market price of the stock and the amount paid by the employee for the stock pursuant to the plan, if any, is subject to income tax at the time of exercise as employment income. However, stock options exercised by former employees would be treated as other income.

Business Income

Personal business income consists of gains, profits, income from trade and commerce, dealing in property, rents, royalties, and income derived from any ordinary transactions carried on for gain or profit. Rental income is the income accruing from the lease of the following assets, which are property or the rights to property; registered or recorded vessels, aircraft, automobiles and heavy equipment, factory facilities or mining facilities, and mining rights. An individual engaged in the business of the rental of real estate properties is also taxed on the deemed rental income calculated at the financial institutions' interest rate on the lease security money as well as the recognized rental income. The taxable amount of business income is what remains after the necessary expenses have been deducted from the gross revenues for the respective year.

Capital Gains

Gains arising from the disposal of capital assets are included in an individual's taxable income but are taxed separately from global income. Certain capital gains are specifically exempt for tax purposes, including gains from the transfer of listed stock. However, exceptionally, when the total stake of a shareholder together with any related parties (called major shareholder) in a listed company exceeds 3%, or total market value of the stock held by a shareholder amounts to KRW10 billion or more, the capital gains are taxed at the rate of 22% (if the holding period is less than one (1) year, 33% would be applied). If the stake is in a small and medium sized company, the gains are subject to tax at 11% (including the resident surtax).

Gains from the disposal of foreign assets are taxable where the transferor has been a Korean resident for five (5) years or more at the time of sale. Capital losses are deductible only against capital gains. Unused losses may not be carried forward.

Most dividend income earned from Korean sources is subject to 15.4% tax withholding at source.

Dividend Income

Dividend income received from both domestic and foreign corporations are taxable. Most dividend income earned from Korean sources is subject to 15.4% tax withheld (15.4% tax withheld) at source. Foreign resident taxpayers who have stayed in Korea for longer than five (5) years during the last ten year period are required to include any dividends received from non-Korean sources in global income and to pay taxes thereon at the greater of basic global tax rates or 15.4%. Foreign resident taxpayers who have stayed in Korea for five (5) years or shorter during the last ten year period are required to include dividends received from non-Korean sources in global income only if the foreign source income is paid by a Korean entity or transferred to Korea.

Interest Income

Interest income earned on other than National Savings Association deposits from both domestic and foreign corporations is taxable. Most interest income earned from Korean sources is subject to 15.4% tax withheld at source. Foreign resident taxpayers who have stayed in Korea for longer than five (5) years during the last ten (10) year period are required to include any interest received from non-Korean sources in global income and to pay taxes thereon at the greater of basic global tax rates or 15.4%. Foreign resident taxpayers who have stayed in Korea for five (5) years or shorter during the last ten (10) year period are required to include any interest received from non-Korean sources in global income only if the foreign source income is paid by a Korean entity or transferred to Korea.

Other Income

Other income denotes specifically designated categories of income other than interest income, dividend income, business income, employment income, pension income and retirement income and capital gains. Other income includes the following:

- Prize winnings and other similar money or goods
- Money or goods in a lottery, sports betting game
- Fees for use of copyrighted materials received by any person other than the creator of the material
- Royalties given as consideration of using films or tapes for radio or television broadcasting or from such use of other similar assets or rights
- Rent derived from a temporary lease of real estate or personal property, goods, or places
- Damages or indemnity payments for breach or cancellation of a contract
- Gains from the alienation of mining rights, fishing rights, industrial property rights, industrial information, industrial secrets, trademarks, goodwill (including certain leases of stores), rights derived from the permission to exploit earth, sand, and stone, the right to exploit and use subterranean water, etc.

Exempt Income

Individuals can request a 50% tax-exempt treatment for certain types of income (specified below) by submitting an application to the appropriate tax authorities through their employers.

- Wages and various allowances received by a qualified foreigner providing services under a high-technology inducement contract prescribed under the Foreign Investment Promotion Law, for a period of two (2) years from the date the expatriate commences rendering services in Korea.

- Wages received by a qualified foreign technician/engineer providing services in Korea to a domestic entity under an engineering technology inducement agreement under the Engineering Technology Promotion Law (of which consideration amounts to US\$300,000 or more) for two (2) years from the date the expatriate commences rendering services in Korea.
- Wages received by a foreign technician with five (5) or more years' working experience at mining, construction, manufacturing, certain technology-intensive, distribution, or certain business-related service industries or having a bachelor's degree and three (3) or more years' working experience in these industries for two (2) years from the date the expatriate commences rendering services in Korea.
- Wages and salaries received by a foreign researcher working in a qualified research centre for two (2) years from the date the expatriate commences rendering services in Korea.

Non-resident Income Taxation

• General

A non-resident is subject to taxation on income derived from sources within Korea. Global taxation is applied if a person has a place of business in Korea or earns income from real estate located in Korea (excluding capital gains from the transfer of land or buildings). For non-residents having no place of business or no income from real property in Korea, tax withholding is made on each type of Korean sourced income. All locally sourced income is subject to global taxation, except for severance pay and capital gains, all of which are taxed in the same manner as they would be if earned by a resident.

Income from domestic sources include:

- Interest and discount on bonds or securities issued by the central or local government as well as other profit from a trust or non-commercial loan as prescribed by the tax law shall be regarded as domestic sourced interest income (excluding, interest paid on funds borrowed directly by a Korean resident's PE in a foreign country or by a Korean corporation for its business outside Korea).
- Distributions of profits or surplus and advance payment of dividends under the Korean Commercial Code without surplus or cumulative earnings received from a domestic corporation or other business entity.

- Income arising from the transfer of a lease, or any other interest from real estate located in Korea, including titles to real estate, mining rights, mine lease-holding rights, or quarrying rights located in Korea, excluding income subject to capital gains tax.
- Income from the lease of vessels, aircraft, etc.
- Income arising from performance of services in the following industries: livestock, forestry, fisheries, mining, quarrying, manufacturing, electricity/gas/water services, construction, communications, real estate dealing, services, and professional services (excluding personal service income).
- Payments in consideration for providing personal service rendered by actors, musicians, professional athletes, lawyers, certified public accountants, licensed tax accountants, certified architects, public surveyors, patent lawyers, and others in liberal professions, persons having expert knowledge or special skills in science, technology, business management or other fields involving the utilization of such knowledge or skills, as prescribed in the tax law.
- Capital gains derived from the transfer of real estate in Korea.
- Wage and salaries including pension and severance pay.
- Royalties for the use of assets or technical information or for the right to use such assets or technical information, and income arising from the transfer of said assets or technical information.
- Capital gains from the transfer of assets other than real estate, such as investment securities or shares invested in a domestic corporation or other securities issued by a domestic corporation. However, gains arising from the transfer by a non-resident of domestically listed shares or corporate shares registered with the Korean Securities Dealers Association in the stock market may not be taxed unless the foreign transferor and its related parties as a whole did not own 25% or more of the shares of the publicly listed entity during the year of transfer and the preceding 5 years.

Deductions

• Business deduction

All business-related expenses, such as moving expenses, travel expenses, automobile expenses, and certain amounts of entertainment expenses, are tax deductible. Alternatively, reimbursements for such expenses can be claimed by the business as deductible expenses and need not be included in the individual's taxable income.

The following amount shall be deducted from the amount of gross income in the current year to work out the adjusted gross income for salary or wage earners.

- a. 80 percent for KRW 5 million or less
- b. 50 percent for more than KRW 5 million but not more than KRW 15 million
- c. 15 percent for more than KRW 15 million but not more than KRW 30 million
- d. 10 percent for more than KRW 30 million but not more than KRW 45 million
- e. 5 percent for more than KRW 45 million.

• Personal exemptions

Korean tax law provides all resident taxpayers with the following standard personal exemptions from individual taxable income.

Basic exemptions per year include:

- KRW1.5 million for the taxpayer.
Non-residents of Korea are allowed to claim only the personal exemption for themselves.
- KRW1.5 million with respect to a spouse who lives with the taxpayer and has an adjusted gross income of less than KRW1 million per annum.
- KRW1.5 million with respect to each eligible dependant who lives with the taxpayer and has an adjusted gross income of less than KRW1 million per annum.

Additionally, exemptions are granted in respect of handicapped person in the taxpayer's household (KRW 2 million each), person aged 70 or older (KRW 1 million each), female taxpayer with dependants but no spouse or a married female taxpayer (KRW 500,000), newborn child or adopted child (KRW 2 million each for the tax year of the birth or adoption), children (KRW 1 million per child of six (6) years or younger), etc.

- Pension premium deduction

State Pension contribution paid by a taxpayer him/herself based on National Pension Law, Veteran Pension Law, Civil Service Pension Law, etc. is fully deductible.

- Special deductions

Taxpayers may claim special deductions with certain limits as set by the tax law in respect of charitable contributions, education expenses, life insurance premiums, medical expenses, mortgage loan and interest expenses, etc. Taxpayers must submit necessary supporting documents to receive special deductions. A taxpayer who has not submitted supporting documents or has a special deduction amount under KRW 1 million may receive a standard deduction of KRW 1 million in lieu of the prescribed special deductions.



Losses

Business losses excluding rental losses are deductible against employment income, pension income, other income, interest income and dividend income in order when the tax base is calculated. Unused losses can be carried forward for ten (10) years. However, rental losses are deductible against only rental income and unused rental losses can be carried forward for ten (10) years. Capital losses are deductible only against capital gains. Unused losses may not be carried forward.

Tax Computation

The basic income tax formula is outlined as follows:

1. All worldwide income less nontaxable income equals gross income.
2. Gross income less personal deductions and other deductions equals taxable income.
3. Taxable income multiplied by the applicable tax rate equals income tax liability.
4. Income tax liability less income tax credits and tax credits for approved tax-exempt income equals net tax payable.
5. Net tax payable less taxes withheld and interim tax payments equals the income tax due with the tax return.

Tax Rates

Individual income tax rates on global income range from 6% to 38% before applying the resident surcharge (10% of income tax liability). The top marginal tax rate, including the resident surcharge, is 41.8% on taxable income in excess of KRW 300 million.

Annual taxable income		(In thousands of Korean Won)	
Over	Equal to	Tax on column 1	% on excess
-	W 12,000	-	6
W 12,000	46,000	W 720	15
46,000	88,000	5,820	24
88,000	300,000	15,900	35
300,000	-	90,100	38

Tax Credits

Certain tax credits against the global income tax liability are available to resident taxpayers. These include the items shown below:

- Credit for Class A and Class B Wages is a maximum of KRW 500,000 per year. Where the calculated tax amount is KRW 500 000 or less, the credit allowance is the calculated tax amount multiplied by 55%. Where the calculated tax amount is more than KRW 500 000, the credit is KRW 275 000 plus 30% of the calculated tax amount in excess of KRW 500 000, subject to the maximum of KRW 500 000 per year.
- A tax credit of 10% of the income tax for Class B wage earners: who voluntarily report their monthly earnings, and pay monthly income taxes through a licensed taxpayers' association.
- A tax credit of 11% of certain dividends received by each shareholder against the individual income tax calculated on the global income which is recomputed by adding 11% of dividends received.
- Where the gross income of a resident includes a foreign source income, the resident may claim a tax credit with a ceiling calculated by reference to a ratio of such income to total taxable income for a year.

Tax Administration

• Taxable period

Personal income tax will be assessed for one (1) year from 1 January to 31 December. If a resident should move out the country, relocating the domicile or residence, the personal income tax shall be imposed for the period from 1 January to the date of departure from the country.

• Tax returns

A resident with global income, retirement income and capital gains is required to file a return on the relevant tax base for the tax year. The return is required to be submitted even if there is taxable income but no tax base or a deficit in the particular year.

An individual income tax return is to be filed and the income tax paid during the period from 1 May to 31 May of the year following the concerned tax year except for certain specified cases. If a taxpayer fails to comply with the obligations, a penalty tax shall be imposed.

Class A wage and salary earners who receive other income, such as interest, dividends, property or Class B salary income, which are not subject to periodic income tax withholding, must file a tax return on their composite income. For certain types of interest and dividends that are subject to tax withholding at source, the amount withheld is considered to be the final tax and the income may be excluded from total taxable income.

Expatriates who receive only Class A salary income and/or retirement income are not required to file a tax return prior to leaving Korea but to submit the documents necessary for the year-end settlement to their employer. However, expatriates who receive income other than Class A salary income shall file their tax returns prior to leaving Korea for the period from 1 January to the date of departure from Korea.

• Payment of tax

A taxpayer who receives only Class A employment income and/or Class A retirement income is generally not required to file an annual individual income tax return. The employers are required to withhold income taxes at source on a monthly basis, finalise the employee's tax liability, and file the final tax settlement receipt with the tax authorities no later than March 10th of the following year.

On the other hand, the employers are not required to withhold Korean taxes at the time of payment of Class B income; however, the individual is required to declare this income annually and pay income taxes thereon on a voluntary basis. Alternatively, the individual may elect to pay Class B income taxes through a licensed taxpayers' association, which collects and remits such taxes on a monthly basis. Taxpayers who join such an association are eligible to receive a 10% credit of income tax payable. In case where an annual tax return is required, the relevant taxes shall be paid with the return due by May 31st of the following year.

***Appendix : Withholding tax
rates on dividends, interest,
and royalties (April 30, 2012)***

Recipient	Dividends (%)	Interest (%)	Royalties (%)
Resident corporations (1)	0	14/25	0
Resident individuals (1)	14	14/25/30	0
Non-resident corporations and individuals:			
Non-treaty (2)	20	14/20 (36)	20 (39)
Treaty:			
Albania	5/10 (8)	10	10
Algeria	5/15 (8)	10	2/10 (15)
Australia	15	15	15
Austria	5/15 (8)	10	2/10 (15)
Azerbaijan	7	10 (37)	5/10 (22)
Bangladesh	10/15 (3)	10	10
Belarus	5/15 (8)	10	5
Belgium	15	10	10
Brazil	10	10/15 (5)	10/25 (6)
Bulgaria	5/10 (7)	10	5
Canada	5/15 (8)	10	10
Chile	5/10 (8)	10/15 (31)	5/15 (33)
China, P.R.	5/10 (8)	10	10
Croatia	5/15 (8)	5	0
Czech Republic	5/10 (8)	10	10
Denmark	15	15	10/15 (4)
Egypt	10/15 (8)	10/15 (9)	15
Estonia	5/10 (8)	10	5/10 (38)
Fiji	10/15 (8)	10	10
Finland	10/15 (8)	10	10
France	10/15 (3)	10	10
Germany	5/15 (8)	10	2/10 (15)
Greece	5/15 (8)	8	10
Hungary	5/10 (8)	0	0
Iceland, Rep. of	5/15 (8)	10	10
India	15/20 (11)	10/15 (12)	15
Indonesia	10/15 (8)	10	15
Iran	10	10	10
Ireland, Rep. of	10/15 (3)	0	0
Israel	5/10/15 (13)	7.5/10 (14)	2/5 (15)
Italy	10/15 (8)	10	10
Japan	5/15 (8)	10	10
Jordan	10	10	10
Kazakhstan	5/15 (3)	10	2/10 (15)

Recipient	Dividends (%)	Interest (%)	Royalties (%)
Kuwait	10	10	15
Laos	5/10 (3)	10	5
Latvia	5/10 (8)	10	5/10 (38)
Lithuania	5/10 (8)	10	5/10 (38)
Luxembourg	10/15 (8)	10	10/15 (16)
Malaysia	10/15 (8)	15	10/15 (17)
Malta	5/15 (8)	10	0
Mexico	0/15 (18)	5/15 (19)	10
Mongolia	5	5	10
Morocco	5/10 (8)	10	5/10 (20)
Nepal	5/10/15 (32)	10	15
Netherlands	10/15 (8)	10/15 (21)	10/15 (22)
New Zealand	15	10	10
Norway	15	15	10/15 (22)
Oman	5/10 (3)	5	8
Pakistan	10/12.5 (11)	12.5	10
Panama	5/15 (8)	5	3/10 (40)
Papua New Guinea	15	10	10
Philippines (2)	10/25 (23)	10/15 (24)	10/15 (25)
Poland	5/10 (3)	10	10
Portugal	10/15 (8)	15	10
Qatar	10	10	5
Romania	7/10 (8)	10	7/10 (22)
Russia	5/10 (26)	0	5
Saudi Arabia, Kingdom of	5/10 (8)	5	5/10 (33)
South Africa (2)	5/15 (8)	10	10
Singapore	10/15 (8)	10	15
Slovak Republic	5/10 (8)	10	0/10 (34)
Slovenia	5/15 (8)	5	5
Spain	10/15 (8)	10	10
Sri Lanka	10/15 (8)	10	10
Sweden	10/15 (8)	10/15 (10)	10/15 (22)
Switzerland	10/15 (8)	10	10
Thailand (2)	10	10/15 (27)	5/10/15 (35)
Tunisia	15	12	15
Turkey	15/20 (8)	10/15 (28)	10
Ukraine	5/15 (11)	5	5
Union of Myanmar	10	10	10/15 (4)
United Arab Emirates	5/10 (3)	10	0
United Kingdom	5/15 (8)	10	2/10 (15)

Recipient	Dividends (%)	Interest (%)	Royalties (%)
United States (2)	10/15 (30)	12	10/15 (29)
Uzbekistan	5/15 (8)	5	2/15 (15)
Venezuela	5/10 (3)	5/10 (19)	5/10 (33)
Vietnam	10	10	5/15 (22)

Notes

- Dividends and interest paid to resident individuals by corporations generally are subject to a 14% WITHHOLDING TAX rate. In addition to this, there is a resident surtax of 10% on the CIT liability.
- In addition to the indicated tax rate, a resident surtax is charged at a rate of 10% of the respective tax rate.
- Lower rate applies in case of equity ownership of 10% or more.
- 10% rate applies to royalties paid for the use of or the right associated with industrial activities.
- 10% rate applies if the loan period extends to seven years or more, the recipient is a financial institution, and the loan is used for certain designated purposes.
- 25% rate applies to royalties associated with the use of trademarks or trademark rights.
- 5% rate applies in case of equity ownership of 15% or more.
- Lower rate applies in case of equity ownership of 25% or more.
- 10% rate applies if the term of loans exceeds three years.
- 10% rate applies when a recipient of interest income is a bank and income is connected with a loan with a term in excess of seven years.
- Lower rate applies in case of equity ownership of 20% or more.
- 10% rate applies if a recipient is a bank.
- 5% rate applies if a recipient holds 10% or more ownership in a paying corporation but, even in case of 10% or more ownership, 10% rate applies if the dividends are paid out of profits subject to tax at a lower rate than the normal corporate tax rate of a country where a payer resides. In other cases, 15% rate applies.
- 7.5% rate applies when a recipient of interest income is a bank or a financial institution.
- 2% rate applies to royalties paid for use of or the right to use industrial, commercial, or scientific equipment.
- 10% rate applies if it is for the use of or the right to use industrial, commercial, and scientific equipment or information.
- 15% rate applies if royalties are for use of or the right to use cinematography films or tapes for radio or television broadcasting or any copyright of literary or artistic work.
- 0% rate applies in case of equity ownership of 10% or more.
- 5% rate applies if a recipient is a bank.
- 5% rate applies to royalties for use of copyrighted literature and music.
- 10% rate applies if the term of the loans exceeds seven years.
- Lower rate applies if it is for the use of or the right to use a patent, trademark, design, or secret formula, or industrial, commercial, and scientific equipment or information.
- 10% rate applies in cases of equity ownership of 25% or more, or dividend paid by a resident company engaged in a preferred pioneer area and registered with the Board of Investment.
- 10% rate applies in cases where the interest is paid in respect of public offering of bonds, debentures, or similar obligations or interest paid by a company that is a resident of the Philippines, registered with the Board of Investment, and engaged in preferred pioneer areas of investment under the investment incentive laws.
- 10% rate applies in case of royalties paid by a company that is a resident of the Philippines, registered with the Board of Investment, and engaged in preferred pioneer areas of investment under the investment incentives laws.
- 5% rate applies if a recipient holds 30% or more of equity interest in the amount of at least USD 100,000.

27. 10% rate applies if a beneficial owner of the income is a financial institution (including insurance company) or resident of Thailand who is paid with respect to indebtedness arising as a consequence of a sale on credit by a resident of Thailand of any equipment, merchandise, or services, except where the sale was between persons not dealing with each other at arm's length.
28. 10% rate applies if the term of the loan exceeds two years.
29. 10% rate applies to royalties for use of copyrighted literature, music, films, and television or radio broadcasts. Otherwise, 15% rate applies.
30. 10% rate applies if equity ownership is 10% or more and not more than 25% of the gross income of a paying corporation for a preceding tax year consists of interest or dividends.
31. 10% rate applies when a recipient of interest income is a bank or an insurance company.
32. 5% rate applies when a recipient holds 25% or more of equity interest, and 10%, when a recipient holds 10% or more of equity interest. In other cases, 15% rate applies.
33. 5% rate applies to royalties paid for the use of or the right associated with industrial, commercial, or scientific equipment.
34. 0% rate applies to royalties paid for the use of academic rights.
35. 5% rate applies to royalties paid for the use of or the right associated with any copyright of literary, artistic, or scientific work, including software, and motion pictures and works on film, tape, or other means of reproduction for use in connection with radio or television broadcasting. 10% rate applies to royalties paid for the use of or the right to use a patent, trademark, design or model, plan, secret formula, or process. 15% rate applies to royalties paid for the use of or the right to use industrial, commercial, or scientific equipment, or for information concerning industrial, commercial, or scientific experience.
36. 14% rate applies if interest arises from bonds issued by a Korean company or government bodies.
37. 0% rate applies if a recipient of interest income is government, central bank, etc.
38. 5% rate applies to royalties paid for the use of industrial, commercial, or scientific equipment.
39. Fees arising from rental of industrial, commercial, scientific equipment, etc. are classified as rental income subject to 2% withholding tax.
40. 3% rate applies to royalties paid for the use of or the right associated with industrial, commercial, or scientific equipment.



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