A Summary of Korean Corporate and Individual Income Taxes 2018

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SAMIL 삼일회계법인

This booklet presents a brief overview of Korean corporate and individual income taxes. The information contained in this booklet is current as of July 2018. For subsequent developments, please consult one of our professionals listed on Page 87. This booklet is intended as a general guide. In specific circumstances, professional advice should be sought.

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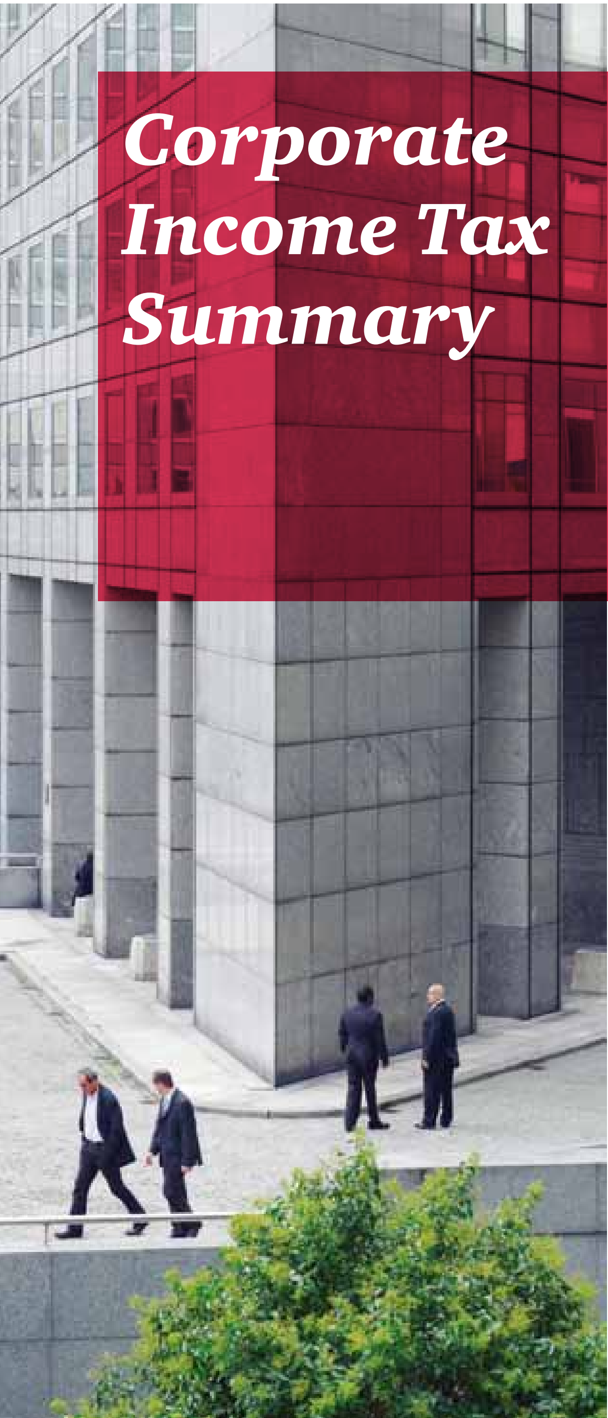
Contents

Corporate Income Tax Summary



Korea, Republic of : Overview

Korea is bordered by China to the northwest and Russia to the northeast, separated from Japan to the east by the Korea Strait and the East Sea (Sea of Japan), and separated from Taiwan to the south by the East China Sea.

An independent Korean state or collection of states has existed almost continuously for several millennia. Between its initial unification in the seventh century (from three predecessor Korean states) until the 20th century, Korea existed as a single independent country. In 1905, following the Russo-Japanese War, Korea became a protectorate of imperial Japan, and, in 1910, it was annexed as a colony. Korea regained its independence following Japan's surrender to the United States in 1945. After World War II, a Republic of Korea (ROK) was set up in the southern half of the Korean Peninsula. The Republic of Korea (South Korea or Korea) is divided into nine provinces, with Seoul as the capital. The official language of South Korea is Korean, and the currency is the won (KRW).

Since the 1960s, South Korea has achieved an incredible record of growth and global integration to become a high-tech industrialised economy. In 2004, South Korea joined the trillion dollar club of world economies and currently is among the world's 20 largest economies. Initially, a system of close government and business ties, including directed credit and import restrictions, made 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. Growth was recorded at 2.8%, 2.9%, and 3.1% for 2015, 2016, and 2017, respectively. South Korea’s per capita income was 21.9 times the level of North Korea in 2016.

Samil PwC has over 3,000 devoted professionals, with approximately 600 dedicated tax professionals and the largest tax practice in Korea. Our multidisciplinary team of tax professionals includes experts with tax, accounting, law, economics, and finance backgrounds. Many of our professionals have previously worked for various governmental bodies in the areas of national tax, customs, and local tax administration. Our senior professionals also regularly assist the Ministry of Strategy and Finance and the National Tax Service in establishing tax policies and implementing the relevant regulations.

Samil PwC has dedicated teams of professionals specialised in transfer pricing, global tax structuring, customs and international trade consulting, and international assignment, as well as human resource services. Industry-focused and product-specialised teams with deep expert knowledge, experience, and know-how are the true hallmarks of Samil PwC's Tax Practice.

Significant Developments

The main focus of the 2018 Corporate Income Tax Law (CITL) reform is to encourage job creation by reforming the existing tax credits for corporate investment to create jobs and additional incentives to stimulate youth employment. Another focus is placed on strengthening the collection of income tax on high-income earners by expanding tax revenue sources through raising the CIT rate for taxable income over 300 billion Korean won (KRW). In addition, the reform proposals include significant changes that would affect cross-border transactions of multinational companies. In the government's commitment to implement the Organisation for Economic Co-operation and Development's (OECD's) recommendations under the base erosion and profit shifting (BEPS) project, the proposals contain new rules to restrict the deduction for hybrid financial instruments and interest expense deductions.

Taxes on Corporate Income

Resident corporations are taxed on their worldwide income, whereas non-resident corporations with a permanent establishment (PE) in Korea are taxed only to the extent of their Korean-source income. Non-resident corporations without a PE in Korea are generally taxed through a withholding tax (WHT) on each separate item of Korean-source income *(see the 'Withholding Taxes' section)*.

The following tax table summarises the CIT rates applicable for the fiscal year starting on or after 1 January 2018:

Tax base (KRW million)		Tax rate*	
Over (column 1)	Less than	Tax on column 1 (KRW)*	Marginal tax rate (%)
0	200	0	10
200	20,000	20	20
20,000	300,000	3,980	22
300,000		65,580	25

* Before applying the local income tax.

Additional Tax on Corporate Income

The tax reform has provided that the 10% additional tax provision introduced in 2015 to facilitate the use of corporate retained earnings to fund facility investment, payroll increase, and dividend payment, which was supposed to be terminated by the end of December 2017, has been extended for three additional years until the end of December 2020 and raised tax rates to 20%. The additional tax shall apply to companies whose net assets exceed KRW 50 billion (excluding small and medium-sized enterprises [SMEs]) and companies belonging to business groups subject to restrictions on cross-shareholdings under the Act on Monopoly Regulation and Fair Trade.

Companies should elect one of the following methods in computing the additional tax:

- ([adjusted taxable income for the year x 65%] - the total amount of facility investment, wage increases, and mutual cooperation payments) x 20%, or
- ([adjusted taxable income for the year x 15%] - the total amount of wage increases and mutual cooperation payments) x 20%.

Agriculture and Fishery Surtax

When a corporate taxpayer claims certain tax credits or exemptions under the Special Tax Treatment Control Law (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% (if the tax base is KRW 10 billion or less, 12% on the tax base exceeding KRW 10 billion but not more than KRW 100 billion, 17% on the tax base exceeding KRW 100 billion) of the taxable income before certain tax deductions and credits pursuant to the STTCL or the actual CIT liability after various deductions and credits.

For SMEs, the minimum tax is the greater of 7% of taxable income before certain tax deductions and credits or actual CIT liability after the deductions and credits. For middle market companies that exceed the size of SMEs (so-called 'medium-scale companies'), an 8% minimum tax rate is applicable for the first three years, starting from the year when the size exceeds an SME for the first time, and a 9% rate is applicable for the next two years.

Local Income Tax

The local income tax is a separate income tax that has its own tax base, tax exemption and credits, and tax rates. The local income tax rates for corporations are 1% on the first KRW 200 million, 2% for the tax base between KRW 200 million and KRW 20 billion, 2.2% for the tax base between KRW 20 billion and KRW 300 billion, and 2.5% for the excess.

Corporate Residence

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.

Permanent Establishment (PE)

A non-resident corporation is generally deemed to have a tax presence (i.e. PE) in Korea in the following cases, among others:

- 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 goods, advertising, publicity, collecting or furnishing of information, or other activities that are preparatory or auxiliary in nature.

Other Taxes

Value-Added Tax (VAT)

VAT is levied at a rate of 10% on the supply of goods and services, except zero-rated VAT on certain supply of goods and services (e.g. goods for exportation, certain eligible services rendered to non-residents earning foreign currency, international transportation service by ships and aircraft) and exemption on certain goods and services (e.g. basic life necessities and services, such as unprocessed foodstuffs and agricultural products; medical and health services; finance and insurance services; duty-exempt goods).

Electronic VAT invoicing is a compulsory requirement. If a taxpayer fails to issue the electronic VAT invoice or report electronically to tax authorities, the relevant penalties shall be imposed.

Customs Duties

Customs duties are generally assessed on imported goods. 'Importation' refers to the delivery of goods into Korea (in case of goods passing through a bonded area, delivery of such goods into Korea from such a bonded area) to be consumed or to be used in Korea.

Property Tax

An annual property tax ranging from 0.07% to 5% is charged on the statutory value of land, buildings, houses, vessels, and aircraft. Five times the property tax rate is applied to factories that are newly constructed or expanded in a designated metropolitan area for the first five years.

Securities Transaction Tax

Securities transaction tax (at the rate of 0.5% for unlisted shares or interest) is imposed on the transfer of shares or interest, but the government is authorised to adjust the tax rate in certain circumstances. The flexible tax rate prescribed by the Presidential Decree is 0.3% (including 0.15% of agriculture and fishery surtax) for shares traded on the Korea Stock Exchange and 0.3%

for shares traded on the Korean Securities Dealers Automated Quotations (KOSDAQ) or the Korea New Exchange (KONEX).

Acquisition Tax

Acquisition tax is charged on the price of real estate, motor vehicles, construction equipment, golf membership, boats, etc. The acquisition tax rate varies depending on the type of assets subject to the tax, ranging from 2% to 7%. A weighted rate is charged on acquisitions in a designated metropolitan area or on acquisition of luxury items, such as villas, golf courses, and yachts.

Stamp Tax

Stamp tax is levied on a person who prepares a document certifying establishment, transfer, or change of rights to property in Korea. The stamp tax ranges from KRW 50 to KRW 350,000, depending on the type of taxable document. The electronic stamp system has been implemented to make it mandatory to use stamps bought online rather than paper stamps bought in banks or post offices.

Registration Tax

Registration tax ranging from 0.02% to 5% is charged upon the act of registering the creation, alteration, or lapse of property rights or other titles and incorporation with the concerned authorities. Registration tax upon the registration of title or right and incorporation for corporations located in a designated metropolitan area may be subject to three times the normal rate of 0.4%.

Gift Tax

Gift tax is imposed on a person who acquires any property or value increase by gift. If CIT or individual income tax is imposed on the gifted property, however, the gift tax shall not be imposed. Gift tax ranges from 10% on not more than KRW 100 million in tax base to the top marginal tax rate of 50%.

Inheritance Tax

Inheritance tax is imposed upon a person or a company that acquires property through inheritance or bequest. However, an inheritor that is a for-profit company shall be exempt from the inheritance tax. Inheritance tax rates are the same as those for gift tax.

Payroll Taxes

Employers are required to withhold income taxes at source on a monthly basis, finalise their employees' tax liability, and file the final tax settlement receipt with the tax authorities no later than the tenth day of March of the following year.

Social Security Contributions

There are four types of social security contributions in Korea, namely national pension, national health insurance, employment insurance, and worker’s accident compensation insurance. Employers and employees are almost equally required to bear a total amount of 8.5% of salaries for the first three types of social security taxes (i.e. national pension, national health insurance, and employment insurance), while the worker's accident compensation insurance is borne by employers only, which varies by industry, ranging from 0.85% (banking, insurance) to 28.25% (coal mining) of salaries.

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 Act.

If the tax treaty between Korea and the country in which a foreign corporation is residing 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 profits tax is levied in addition to the regular CIT, 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.

Income Determination

Gross income consists of gains, profits, income from trade and commerce, dealings in property, rents, royalties, and income derived from any transactions carried on for gain or profit.

Inventory Valuation

Inventories generally are stated at either the lower of cost or market (LCM) or cost method. Any one of LCM and six cost methods, including specific identification, first in first out (FIFO), last in first out (LIFO), weighted-average, moving-average, and retail method, can be elected for tax purposes. The method elected should be applied consistently each year unless an application for change has been submitted before three months from the year-end. Different valuation methods may be used for different categories (i.e. manufactured goods and merchandised goods, semi-finished goods and goods in process, raw materials, supplies in stock) and different business places.

For inventory costing under Korean International Financial Reporting Standards (K-IFRS), LIFO is not an acceptable accounting method. Consequently, in a year when a taxpayer first adopts K-IFRS and duly reports the change of inventory valuation method from LIFO to one of the other costing methods (e.g. FIFO, weighted average), the taxpayer is allowed to exclude the inventory valuation gain arising from the change and include it in its taxable income over the next five-year period using a straight-line method.

Stock Valuation

The valuation of securities or bonds shall be made using the cost method. For the cost method, the weighted-average cost method or moving-average cost method shall be applied for the purpose of valuation of securities, and the specific-identification method may be used for valuation of bonds.

Capital Gains

Generally, capital gains are taxed at the same CIT rate as ordinary taxable income. For the purposes of taxation, gross income does not include income derived from gains from capital transactions, such as capital surplus, gains on reduction of paid-in capital, etc. However, gains from treasury stock transactions are taxed, and losses are deductible from taxable income.

Note that capital gains from the disposal of non-business purpose land or houses may be subject to additional capital gains tax at the rate of 10% (40% in the case of non-registered land or houses) in addition to the normal CIT.

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 share 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.

Rental Income

Income from the leasing of property shall be included in taxable income. In cases where a company is subject to an estimated tax by the tax authority due to the absence of books of accounts, the deemed rental income as calculated at a term deposit interest rate on the lease deposit received by the company will be included in taxable income.

Royalty Income

Royalties are considered to be taxable income when earned.

Gains and Losses on Foreign Currency Translation

Companies are allowed to recognise unrealised gains and losses on foreign currency translation of their monetary assets and liabilities in a foreign currency. This recognition is also allowed with respect to currency forward transactions and swaps to hedge foreign exchange risks of such assets and liabilities. In this regard, a taxpayer can choose whether to recognise unrealised gains and losses or not for tax purposes. Once elected, the same method must be consistently used.

Foreign Income

Resident corporations are taxed on their worldwide income. A Korean company is taxed on its foreign-source income as earned at normal CIT rates. To avoid double taxation, taxes imposed by foreign governments on the foreign-source income recognised by a resident company are allowed as a credit against CIT or as deductible expenses in computing the taxable income.

Generally, income of foreign subsidiaries incorporated outside Korea is not included in the taxable income of a resident company until the declaration of dividends from the foreign subsidiaries. Therefore, the Korean tax impact may be delayed through deferring the declaration of dividends unless the controlled foreign corporate (CFC) rule under the Law for Coordination of International Tax Affairs (LCITA) is applied.

The CFC rule provides that the undistributed earnings of a resident company's foreign subsidiary located in a low-tax jurisdiction (where the effective tax rate on the income before tax for the past three years averages 15% or less) are taxed as deemed dividends to the resident company that has direct and indirect interest of 10% or more in such subsidiary. The CFC rule does not apply in cases where a foreign subsidiary has fixed facilities (e.g. office, factory) in a low-tax jurisdiction for the conduct of business, it manages or controls the business by itself, and the business is mainly performed in the jurisdiction. Even in this case, however, where passive income (e.g. income from investment in securities or lending loans) is more than 50% of gross income, the CFC rule shall be applicable. Furthermore, in cases where the passive income is between 50% and 5% of the foreign subsidiary's gross income, the CFC rule will apply in a limited manner (i.e. a CFC's undistributed earnings will be included in taxable income of the CFC's domestic related parties in proportion of such passive income to its gross income). However, dividends will be excluded in calculating the amount of passive income if they are derived from shares issued by the company that is 10% or more owned by a CFC.

If dividends from a qualifying subsidiary are included in taxable income of a resident company, the foreign tax paid by a qualifying subsidiary on the subsidiary's taxable income is eligible for a foreign tax credit in the hands of the resident company regardless of whether there are tax treaties with the relevant foreign countries. For this purpose, a qualifying subsidiary refers to the company in which a resident corporation owns 25% or more of its shares for the period of six consecutive months or more prior to the date of dividend declaration. Unused foreign tax credits can be carried forward for five years.

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 qualifying evidences, such as credit card sales vouchers, cash receipts, tax invoices, and those vouchers and invoices stored in the company's enterprise resource planning (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 determined.

Depreciation and Amortisation

Depreciation of all property, plant, and equipment (PP&E), which includes buildings, machinery, and 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 capitalised 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 capitalised 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.

In determining depreciation using a straight-line method, salvage value of the assets is regarded as zero. However, where the declining-balance method is used, 5% salvage value is required. Changes in the depreciation method must be approved by the tax authorities in advance, and such approval may only be obtained in exceptional cases (i.e. merger between two corporations having different depreciation methods). Although the tax law specifies the standard useful lives for each type of assets, the useful life of a fixed asset can be increased or decreased by 25% of the standard useful life at the taxpayer's election. The elected depreciation method and useful life should be consistently applied. Also, a taxpayer can apply for a change to the useful life within 50% of the standard useful life, which requires an approval from tax authorities.

The standard useful life and the scope of elective useful life for assets are provided in the following tables:

Tangible fixed assets	Standard useful life (years)	Scope of elective useful life (years)
Vehicles (excluding those used for transportation businesses and leasing service of machinery, equipment, and consumer goods), tools, equipment, and fixtures	5	4 to 6
Ships and aircraft (excluding those used for fishery, transportation, and leasing service of machinery, equipment, and consumer goods)	12	9 to 15
All buildings and constructions of brick structure, block structure, concrete structure, mud structure, mud wall structure, wooden structure, wooden frame mortar structure, and other structures	20	15 to 25
All the buildings and constructions of steel-frame/iron bar concrete structures, stone structures, brick/stone structures, steel-frame structures	40	30 to 50

Note that machinery and equipment used for specific industries shall be subject to different useful lives from four years (e.g. bag manufacturing) to 20 years (e.g. water supply service).

Intangible fixed assets	Useful life (years)
Goodwill, design rights, utility model rights, trademarks	5
Patents	7
Fishery rights, extraction rights under the law of development of mineral resources at the sea bottom (may elect activity method), right of management for toll roads, water rights, right of use for electricity and gas service facilities, right of use for tap water facilities for industrial use, right of use for general tap water facilities, right of use for heating facilities	10
Mining rights (may elect activity method), right of use for exclusive telegraph and telephone facilities, right of use for exclusive sidetracks, right of management for sewage disposal, right of management for tap water facilities	20
Right of use for dams	50

Note that for used fixed assets (including assets acquired through mergers or spin-offs) that have been used for more than half of their standard useful lives, a new useful life may be filed with the tax authorities of between 50% of the standard useful life and the standard useful life.

According to the CITL, depreciation is allowed for tax deduction only when expensed for book purposes. However, in order to alleviate any dramatic increase in tax burden due to decreased depreciation expenses through the adoption of K-IFRS, additional expense deduction may be allowed through tax adjustment. 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 lives only if they are the same type of existing assets used for the same business line and the calculation method of deduction is regulated.

Deduction of Company Car Expenses

For company cars provided to officers or employees (whether owned or leased), the amended CITL includes requirements for a company to have appropriate operation records or sufficient evidence to claim the deduction. The depreciation of a company car is limited to KRW 8 million annually for CIT purpose. In addition, the deduction of company car expenses, including depreciation, shall be disallowed for the portion of private use.

Goodwill

Amortisable goodwill for tax purposes is defined as 'value transferred with consideration, apart from transferred assets included in business transfer, valuated by taking into account business premium factors of the transferor such as permission/licence, legal privileges, geographical advantages, business secrets, credit, reputation, transaction partners, etc.'. Goodwill shall be amortised over five years using the straight-line method for tax purposes.

Start-Up Expenses

Start-up expenses, such as incorporation expenses, founders' salary, and registration fees and taxes, are deductible if the expenses are recorded per the articles of incorporation and are actually paid.

Interest Expenses

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, as follows:

- If borrowings from a foreign shareholder, or from a third party under a payment guarantee by the foreign shareholder, exceed two times the equity of the relevant foreign shareholder, the paid interest and discount fee as to the relevant excessive portion will be disallowed and further treated as a dividend payment.
- Debenture for which the creditor is unknown.

- Bonds and securities on which recipient of interest is unknown.
- Construction loans and loans for the purchase of land and fixed assets up to the date on which the assets are acquired or completed must be capitalised as a part of the cost of the asset and depreciated over the life of the asset. Interest after the date of completion or acquisition is deductible as incurred.
- Interest on loans related to non-business purpose assets or funds loaned to related parties.
- Interest expense paid to an overseas related company that exceeds 30% of taxable income before depreciation and interest of the domestic company.

Contingent Liabilities

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

The amounts enumerated below are also counted as losses in calculating income for the business year:

- The amount of gains from insurance claims used to acquire the same kinds of fixed assets as the lost fixed assets, or to improve the damaged fixed assets within two years after the first day of the business year following the business year in which the gains fall.
- The amount of a beneficiary's share of construction costs received by a domestic corporation engaged in the electricity or gas business, etc. used for the acquisition of fixed assets.
- The amount of the national treasury subsidies actually used for acquisition or improvement of fixed assets for business.

Bad Debt

For companies that are not financial institutions, a doubtful accounts reserve is allowed as a deduction for tax purposes at the greater of 1% on the tax book value of the receivables at a year-end or actual bad debt ratio (deductible bad debts in a current year divided by the preceding year's tax book value of receivables). Bad debts are allowed as a deduction when certain legal proceedings are satisfied or the statute of limitations has lapsed.

Charitable Contributions

Donations to public interest entities, such as government authorities and social welfare organisations, as well as donations for academic research, technical development, etc., are classified as Bub-jung donations. Bub-jung donations are tax-deductible at up to 50% of the total taxable income for the concerned fiscal year after deduction of net operating loss (NOL). Ji-jung donations to public entities prescribed by the CITL are also tax-deductible at up to 10% of the total taxable income for the fiscal year after the deduction of deductible Bub-jung donations and NOL.

The amount in excess of such limit may be carried over for 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 as long as it is reasonable, 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

Employers hiring one or more employees are required to set aside severance pay or retirement pensions for their employees. Defined contribution (DC) and defined benefits (DB) are the two available schemes for the retirement pension system. Under the DC scheme, the premiums paid by the employer are deductible upon payment, while deductions for the reserve under the DB scheme are subject to a limit.

Payment for Directors

Bonuses paid to directors in excess of the amount determined in the articles of incorporation or at a shareholders' meeting, etc. are not deductible. Also, severance benefits paid to directors in excess of the amount prescribed in the tax law are not deductible.

Entertainment Expenses

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.

The deductible limit for entertainment expenses in a business year is computed as:

- an amount calculated by multiplying KRW 12 million (KRW 18 million [temporarily increased to KRW 24 million for the tax years beginning on or after 1 January 2015 and ending on 31 December 2018] for an SME) by the number of months in the respective business year divided by 12, plus
- an amount calculated by multiplying the amount of gross receipts for a business year by the rates listed in the following table (in the case of receipts from transactions between related parties, 10% of the amount calculated by multiplying the receipts by the following rates shall be applied).

Amount of gross receipts (KRW)	Rate
10 billion or less	0.2%
Over 10 billion up to 50 billion	KRW 20 million + 0.1% of the excess over KRW 10 billion
Greater than 50 billion	KRW 60 million + 0.03% of the excess over KRW 50 billion

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 WHT on earned income (this excludes the severance insurance premium or social security taxes that are borne by employers).

Fines and Penalties

Fines, penalties, and interest on underpayment of taxes are not deductible.

Taxes

Income taxes are generally not deductible in determining income subject to CIT.

Net Operating Losses (NOLs)

In general, an NOL carryover is allowed for ten years. The amended CITL restricts a company from deducting the NOL in excess of 70% (60% for the fiscal year beginning 1 January 2019 and thereafter) of the taxable income of fiscal year starting 1 January 2018 and ending 31 December 2018. The CITL maintains the current restriction on a foreign corporation from deducting the NOL in excess of 80% of the taxable income. However, SMEs and certain qualifying companies under recovery process, etc., which will be exempt from this rule, are allowed to deduct the NOL without limitation.

Generally, loss carrybacks are not allowed. However, SMEs can carry back an NOL for one year.

Payments to Foreign Affiliates

With sufficient supporting documentation and under the arm's-length principle, interest, royalty, and management service fees paid to foreign affiliates are deductible for CIT purposes.

Under the LCITA, the following conditions must be met in order for a management service fee charged by a foreign related party to a domestic company to be deductible:

- The services must be provided based on an agreement entered into by the service provider prior to the service transaction.
- The provision of the service can be verified by a schedule of services, description of services, description of the company providing services and its employees, detailed explanation of expenses incurred, and other supporting documentation.
- A company must be able to anticipate the company's additional profit or reduced expense through the services provided by a foreign affiliate.
- Payment for the provided services should be consistent with arm's-length standards.

Group Taxation

The consolidated corporate tax filing system can be adopted for a domestic corporation in cases where two or more wholly-owned subsidiaries exist. A taxpayer may elect the consolidated filing scheme upon approval from the tax authorities, but it cannot be revoked for at least five years after the election of the consolidated tax filing.

Transfer Pricing

The LCITA authorises the tax authorities to adjust the transfer price based on an arm’s-length price and to determine or recalculate the taxable income of a domestic company (including PE of a foreign company) when the transfer price for the transaction between the domestic company and its foreign related party is either below or above an arm's-length price.

The LCITA lists the following methods for determining an arm's-length price: the comparable uncontrolled price (CUP) method, the resale price method, the cost-plus method, the profit-split method, the transactional net margin method, and other reasonable methods. Other reasonable methods can be used only if it is unfeasible to apply one of the aforementioned methods.

The method used and the reason for adopting that particular one for an arm's-length price determination must be disclosed to the tax authorities by a taxpayer in a report submitted along with the taxpayer's annual tax return.

Transfer Pricing Documentation Requirement

In line with the OECD BEPS Action 13, the LCITA includes a reporting requirement for multinational companies in Korea to submit a consolidated report (including local file and master file) on their cross-border, related-party transactions, affecting not only Korean corporations but also foreign corporations having a PE in Korea that meet all of the following conditions: (i) annual gross sales of an individual entity exceeding KRW 100 billion and (ii) international related-party transactions exceeding KRW 50 billion per year. Required information to be submitted for reporting includes organisation, business, intangible assets, related-party transactions, etc. relating to the group and the local entity. Failure to comply with the reporting requirement will result in a penalty.

The amended Law for the LCITA introduces the requirement to submit country-by-country (CbC) reporting following the implementation of the new transfer pricing rules requiring multinationals in Korea to submit local files and master files on their cross-border transactions. The CbC report must be filed within 12 months after the end of the ultimate parents' income tax year. This rule is applicable to the required information for fiscal years starting on or after 1 January 2017.

Thin Capitalisation

In cases where a Korean company borrows from its foreign-controlling shareholder and the debt-to-equity ratio exceeds 2:1, a portion of interest payable on the excess borrowing is characterised as dividends subject to Korean WHT (reduced rate if a tax treaty applies) while being treated as non-deductible in computing taxable income.

In line with the OECD's recommendation on the limitation of interest expense deductions (BEPS Action 4), the new rule shall restrict interest deduction on top of the existing thin capitalisation rule. Deduction of net interest (i.e. the amount of interest expense paid to overseas related parties minus the interest income received from overseas related parties) claimed by a domestic company for international transactions will be limited to 30% of the adjusted taxable income (i.e. taxable income before depreciation and net interest expenses) of the domestic company. This will be implemented from the fiscal year beginning on or after 1 January 2019.

Controlled Foreign Corporations (CFCs)

Under the Korean CFC rule, when a Korean national directly or indirectly owns at least 10% in a foreign corporation and the foreign company's average effective income tax rate for the three most recent consecutive years is 15% or less, the undistributed earnings of the CFC shall be deemed to be paid as a dividend to the Korean national and subject to tax in Korea.

For more information on the CFC rule, see Foreign income in the 'Income Determination' section.

Deduction Limit on Hybrid Financial Instruments

In a commitment to implement the hybrid mismatch rules recommended by the OECD (BEPS Action 2), a new rule shall limit expense deductions for hybrid mismatch arrangements. Hybrid financial instruments include financial instruments that have debt or equity positions at the same time but are treated as a debt in one country but treated as an equity in the other country (e.g. participating bonds). In principle, expense deduction will be denied for the amount of payment that is not taxed in a counterpart jurisdiction. This rule will apply for the fiscal year beginning on or after 1 January 2018.

Related-Party Transactions

Under the provision of the 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.

Tax Credits and Incentives

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. The excess foreign tax credit can be carried forward five years.

Indirect foreign tax credit is also available for a Korean parent company in cases where the dividends from a foreign subsidiary are included in the taxable income of the Korean parent company. The conditions on indirect tax credit exclude the overseas grandson subsidiary and raise the shareholding ratio from 10% or more to 25% or more.

Special Tax Deductions for SMEs

A special deduction on corporate taxes is available for SMEs when they are engaged in a qualified business. The tax deduction ratio ranges from 5% to 30%, depending on corporate location, size, business types, etc., with a cap of KRW 100 million. This incentive is applied to taxable income arising in the tax years that end before 31 December 2020.

Investment Incentives

Tax credits are generally available for qualified investment in facilities for productivity enhancement, safety, job-creating investments, etc.

Tax credit for investment in facilities for productivity enhancement

If a resident makes an investment in facilities or equipment to increase productivity by no later than the end of December 2019, then 1% (3% for medium-scale companies and 7% for SMEs) of such investment amount shall be deducted from CIT. The unused tax credit can be carried forward to the next five years.

Tax credit for investment in facilities for safety

If a resident or a domestic corporation makes an investment in a facility (excluding any investment in used assets) for safety that is considered necessary for industrial purposes no later than the end of December 2019, then an amount of 1% (3% for medium-scale companies and 7% for SMEs) of such investment shall be deducted from CIT. The unused tax credit can be carried forward to the next five years.

Tax credit for investment for commercialisation of new growth-engine and core technologies

The amended tax law has introduced a new tax credit in respect of investment in facilities designed to promote the commercialisation of new growth-engine or core technology (e.g. facilities for the manufacturing of new drugs for which patents are obtained by a company based on clinical trials). The tax credit rate is 10% of the amount of investment for SMEs, while the rates are adjusted to 7% for medium-scale companies and 5% for large corporations. This tax credit is applied to investment made until the end of December 2018.

Tax credit for job creation

The STTCL has introduced an employment-promoting tax incentive in respect of new employment depending on the number of increased employees, with certain limits if a company is engaged in businesses except for those that fall under the category of consumption-oriented services (e.g. entertainment and beverage service). This incentive is based on the scheme of having redesigned those tax credits for job-creating investment and to support youth job creation. The amount of tax credit varies: up to KRW 11 million per new employee for SMEs, up to KRW 7 million for medium-scale companies, and up to KRW 3 million for large companies. The proposed change will be temporarily available for two years (one year for large companies) from the year beginning on or after 1 January 2018. The unused tax credit can be carried forward to the next five years.

Tax credit for increase in corporate payroll

The tax law applies tax credits (5% for large companies, 10% for medium-scale companies, and 20% for SMEs) on the incremental amount in average corporate payroll over a certain base level calculated in a prescribed manner by taking into account either the average corporate payroll over the previous three years or the average payroll increase among the SMEs in Korea. This is conditional on there being no decline in the number of full-time employees from the previous year. The tax credit, which was supposed to terminate by the end of December 2017, has been extended three additional years until the end of December 2020. The unused tax credit can be carried forward to the next five years.

Tax credit for re-hiring retired female employees of SMEs

The tax law allows a tax credit to promote the re-employment of female employees of SMEs who retired for pregnancy, childbirth, or care and other personal reasons as prescribed in the Presidential Decree. The tax credit is designed to allow SMEs to subtract the amount, as much as 30% of labour costs of SMEs (15% for a medium-scale companies) paid per re-hired female employee, from their corporation tax payable for the period of two years following the month of re-employment if prescribed conditions are met. The tax credit, which was supposed to terminate by the end of December 2017, has been extended to apply if a company executes an employment contract until the end of December 2020. The unused credit can be carried forward to the next five years.

Research and Development (R&D) Tax Incentives

The STTCL provides various tax incentives to stimulate R&D activities. These include a tax credit for research and manpower development expenses, a tax credit for technology transfer, and tax credits for merger or acquisition of a technology innovative SME.

Tax credit for development of research and manpower

Companies presently claim a tax credit in relation to qualifying R&D expenditure to the extent of either (i) 0% to 2% (8% for medium-scale companies, 25% for SMEs) of the current R&D expenses or (ii) 25% (40% for medium-scale companies, 50% for SMEs) of the incremental portion of the current R&D expenses over the previous year. The incremental method can be applied only when the R&D expenses for the prior year exceed the average R&D expenses for the previous four years. However, for the R&D expenditures in qualified new growth engine and core technology areas designated in the presidential decree, the preferred credit rates are applied 20% to 40%, depending on the type of company. The unused credit can be carried forward to the next five years.

Tax credit for technology transfer among SMEs (Korean patent box regime)

Tax credit and reductions have been introduced to facilitate the transfer of technology between companies so as to enhance technical competencies and the recovery of funds invested in technology more efficiently. CIT on income derived by SMEs and specified medium-scale companies from the transfer of patents, etc. to a Korean national is reduced by 50%. The tax law grants a 25% tax credit for income derived by SMEs and medium-scale companies from the leasing of patents or utility model rights where the company has first filed a registration of such rights. The tax credit is 5% (10% for SMEs) of the amount paid to acquire patents, etc. (ceiling at 10% of CIT). This temporary credit is applicable to transfers, purchases, or leases taking place until the end of December 2018. The unused credit can be carried forward to the next five years.

Tax credit for merger or acquisition of a technology innovative SME

In cases where a domestic company merges with a technology innovative SME in a qualified manner, the merger company shall be permitted to take a 10% tax credit with respect to the payment made in such a merger, up to the value of the acquired technology. This 10% tax credit will also be available for a company that acquires shares in a technology innovative SME in a qualified manner no later than the end of December 2018. In this case, if any of requirements for a qualified manner fails to be met, the amount of tax credited will be collected. The unused credit can be carried forward to the next five years.

Tax credit for investment in facilities for technology and human resources development

A corporation purchasing facilities no later than 31 December 2018 prescribed in the Presidential Decree with the purpose of R&D and job training is eligible for a tax credit of up to 1% (3% for medium-scale companies, 6% for SMEs) of such investment. The unused tax credit can be carried forward five years.

Energy·Environmental Incentives

Tax credit for investment in energy-saving facilities

If a resident makes an investment (excluding any investment in used goods) no later than 31 December 2018 in energy-saving facilities, 1% (3% for medium-scale companies, 6% for SMEs) of such investment shall be deducted from CIT. The unused tax credit can be carried forward five years.

Tax credit for investment in facilities for environmental protection

If a resident makes an investment (excluding any investment in used goods) in any facility for the purpose of environmental conservation no later than 31 December 2018, then 3% (5% for medium-scale companies, 10% for SMEs) of the investment amount shall be deducted from CIT. The unused tax credit can be carried forward five years.

Inbound Investment Incentives

The Korean government provides various incentives and benefits for inducing foreign investment under the Foreign Investment Promotion Law.

Among others, foreign-invested companies that engage in certain qualified high-technology businesses can apply for 100% exemption from CIT 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 WHT on dividends, which was available for foreign investors in the same manner as above during the same grace period, is no longer granted for tax exemption applications filed on or after 1 January 2014. However, the WHT exemption on dividends already approved will not be affected by the tax law change. In addition, the taxpayer can apply for 100% exemption from acquisition tax and property tax on assets acquired for their exempt 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) and higher exemption ratios in accordance with their local ordinances. Qualified foreign investment also can be eligible for exemption from customs duties, VAT, and individual consumption tax on imported capital goods.

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 (FIZs), free economic zones (FEZs), free trade zones (FTZs), and strategic industrial complexes exclusively developed for foreign invested companies. The tax incentives for qualifying foreign investors in individual type FIZs and FEZs and certain strategic industrial complexes that are approved by the related committee under laws governing the operation of the zones are similar to those of the above foreign invested high-tech companies. Qualifying investors in complex type FIZs, FEZs, FTZs, and strategic industrial complexes may receive the 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. They also receive exemption from customs duties on imported goods.

The amended tax law has reformed the scope of businesses eligible for foreign investment tax incentives to be aligned with those that qualify for the foregoing

R&D tax credit. This change is applied to foreign investment for which tax incentive is applied on or after 7 February 2017.

To receive tax incentives for inbound investment, an application for tax incentives, together with supporting documents, should be filed with the tax authorities by the end of the fiscal year that the business commencement date belongs to. In addition, foreign investment made via specific countries is excluded from the exemption from corporate or individual income tax and local taxes for inbound investment. They include those countries with which Korea has not entered into income tax treaties (including tax information exchange agreements [TIEAs] and investment promotion and protection agreements), such as Botswana, Republic of Cyprus, Dominican Republic, Guatemala, Lebanon, Nauru, Niue, Seychelles, and Trinidad and Tobago.

Foreign direct investment (FDI) incentive limitations

The FDI credit limits incentives granted to qualified FDIs. The ceiling has been set to encompass both investment amount and job-creation. In terms of investment amount, the level of incentives for FDI is allowed up to 50% of the aggregated FDI amount for companies benefiting from a seven-year incentive period (40% ceiling for companies enjoying a five-year incentive period). In terms of job-creation, the level of incentives for FDI is allowed up to 50% of the aggregated FDI amount for companies benefiting from a seven-year incentive period (40% for companies enjoying a five-year incentive period) based on the number of employees.

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.

Withholding Taxes

Foreign corporations with income derived from sources in Korea are subject to CIT 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 CIT.

For residents of countries having a tax treaty with Korea, reduced WHT rates may apply. An application form must be submitted to the withholding agents in order to apply the treaty rate. If a beneficiary cannot be identified in the application form, the withholding agents should withhold the tax at the non-treaty rate.

For dividends, interest, and royalties, the WHT rates are limited as follows:

Recipient	WHT (%)		
	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 (35)	20 (38)
Treaty:			
Albania	5/10 (8)	10	10
Algeria	5/15 (8)	10	2/10 (14)
Australia	15	15	15
Austria	5/15 (8)	10	2/10 (14)
Azerbaijan	7	10 (36)	5/10 (21)
Bahrain	5/10 (8)	5	10
Bangladesh	10/15 (3)	10	10
Belarus	5/15 (8)	10	5
Belgium	15	10	10
Brazil	10	10/15 (5)	10/25 (6)
Brunei	5/10 (8)	10	10
Bulgaria	5/10 (7)	10	5
Canada	5/15 (8)	10	10

Chile	5/10 (8)	10/15 (30)	5/15 (32)
China, People's Republic of	5/10 (8)	10	10
Colombia, Republic of	5/10 (11)	10	10
Croatia	5/15 (8)	5	0
Czech Republic	5/10 (8)	10	10
Denmark	15	15	10/15 (4)
Ecuador	5/10 (3)	12	5/12 (21)
Egypt	10/15 (8)	10/15 (9)	15
Estonia	5/10 (8)	10	5/10 (32)
Ethiopia	5/8 (8)	7.5 (36)	5
Fiji	10/15 (8)	10	10
Finland	10/15 (8)	10	10
France	10/15 (3)	10	10
Gabon	5/15 (8)	10	10
Georgia	5/10 (3)	10	10
Germany	5/15 (8)	10	2/10 (14)
Greece	5/15 (8)	8	10
Hong Kong	10/15 (8)	10	10
Hungary	5/10 (8)	0	0
Iceland, Republic of	5/15 (8)	10	10
India	15	10	10
Indonesia	10/15 (8)	10	15
Iran	10	10	10
Ireland, Republic of	10/15 (3)	0	0
Israel	5/10/15 (12)	7.5/10 (13)	2/5 (14)
Italy	10/15 (8)	10	10
Japan	5/15 (8)	10	10
Jordan	10	10	10
Kazakhstan	5/15 (3)	10	2/10 (14)
Kenya	8/10 (8)	12	10
Kuwait	5	5	15
Kyrgyzstan	5/10 (8)	10	5/10 (32)
Laos	5/10 (3)	10	5
Latvia	5/10 (8)	10	5/10 (32)
Lithuania	5/10 (8)	10	5/10 (37)
Luxembourg	10/15 (8)	10	10/15 (15)
Malaysia	10/15 (8)	15	10/15 (16)
Malta	5/15 (8)	10	0
Mexico	0/15 (17)	5/15 (18)	10
Mongolia	5	5	10

Morocco	5/10 (8)	10	5/10 (19)
Myanmar	10	10	10/15 (4)
Nepal	5/10/15 (31)	10	15
Netherlands	10/15 (8)	10/15 (20)	10/15 (21)
New Zealand	15	10	10
Norway	15	15	10/15 (21)
Oman	5/10 (3)	5	8
Pakistan	10/12.5 (11)	12.5	10
Panama	5/15 (8)	5	3/10 (32)
Papua New Guinea	15	10	10
Peru	10	15	10/15 (39)
Philippines (2)	10/25 (22)	10/15 (23)	10/15 (24)
Poland	5/10 (3)	10	5
Portugal	10/15 (8)	15	10
Qatar	10	10	5
Romania	7/10 (8)	10	7/10 (21)
Russia	5/10 (25)	0	5
Saudi Arabia, Kingdom of	5/10 (8)	5	5/10 (32)
Serbia	5/10 (8)	10	5/10 (19)
Singapore	10/15 (8)	10	15
Slovak Republic	5/10 (8)	10	0/10 (33)
Slovenia	5/15 (8)	5	5
South Africa (2)	5/15 (8)	10	10
Spain	10/15 (8)	10	10
Sri Lanka	10/15 (8)	10	10
Sweden	10/15 (8)	10/15 (10)	10/15 (21)
Switzerland	5/15 (3)	5/10 (18)	5
Tajikistan	5/10 (8)	8	10
Thailand (2)	10	10/15 (26)	5/10/15 (34)
Tunisia	15	12	15
Turkey	15/20 (8)	10/15 (27)	10
Turkmenistan	10	10	10
Ukraine	5/15 (11)	5	5
United Arab Emirates	5/10 (3)	10	0
United Kingdom	5/15 (8)	10	2/10 (14)
United States (2)	10/15 (29)	12	10/15 (28)
Uruguay	5/15 (11)	10	10
Uzbekistan	5/15 (8)	5	2/15 (14)
Venezuela	5/10 (3)	5/10 (18)	5/10 (32)
Vietnam	10	10	5/15 (21)

Notes

1. Dividends and interest paid to resident individuals by corporations generally are subject to a 14% WHT rate. In addition to this, there is a resident surtax of 10% on the CIT liability.
2. In addition to the indicated tax rate, a resident surtax is charged at a rate of 10% of the respective tax rate.
3. Lower rate applies in case of equity ownership of 10% or more.
4. 10% rate applies to royalties paid for the use of or the right associated with industrial activities.
5. 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.
6. 25% rate applies to royalties associated with the use of trademarks or trademark rights.
7. 5% rate applies in case of equity ownership of 15% or more.
8. Lower rate applies in case of equity ownership of 25% or more.
9. 10% rate applies if the term of loans exceeds three years.
10. 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.
11. Lower rate applies in case of equity ownership of 20% or more.
12. 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.
13. 7.5% rate applies when a recipient of interest income is a bank or a financial institution.
14. 2% rate applies to royalties paid for use of or the right to use industrial, commercial, or scientific equipment.
15. 10% rate applies if it is for the use of or the right to use industrial, commercial, and scientific equipment or information.
16. 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.
17. 0% rate applies in case of equity ownership of 10% or more.
18. 5% rate applies if a recipient is a bank.

19. 5% rate applies to royalties for use of copyrighted literature and music.
20. 10% rate applies if the term of the loans exceeds seven years.
21. 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.
22. 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.
23. 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.
24. 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.
25. 5% rate applies if a recipient holds 30% or more of equity interest in the amount of at least 100,000 United States dollars (USD).
26. 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.
27. 10% rate applies if the term of the loan exceeds two years.
28. 10% rate applies to royalties for use of copyrighted literature, music, films, and television or radio broadcasts. Otherwise, 15% rate applies.
29. 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.
30. 10% rate applies when a recipient of interest income is a bank or an insurance company.
31. 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.
32. 5% rate applies to royalties paid for the use of or the right associated with industrial, commercial, or scientific equipment.

33. 0% rate applies to royalties paid for the use of academic rights.
34. 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.
35. 14% rate applies if interest arises from bonds issued by a Korean company or government bodies.
36. 0% rate applies if a recipient of interest income is government, central bank, etc.
37. 5% rate applies to royalties paid for the use of industrial, commercial, or scientific equipment.
38. Fees arising from rental of industrial, commercial, scientific equipment, etc. are classified as rental income subject to 2% WHT.
39. 10% rate applies to royalties paid for technical support.

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 WHT paid within three years if it proves 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.

Tax Administration

Taxable Period

In Korea, the taxable year is on a fiscal-year basis as elected by the taxpayer. However, it cannot exceed 12 months.

Tax Returns

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.

A corporation must file an annual tax return with due payment for the fiscal year, and the filing/payment must be made within three months (four months for the consolidated tax return) from the end of the fiscal year. In case the external audit is not completed and the financial statements are not fixed, a corporation can request for extension of tax filing by one month with delinquent interest of 1.8% per annum.

Payment of Tax

Where the tax amount to be paid by a resident corporation is in excess of KRW 10 million, part of the tax amount to be paid may be paid in instalments within one month of the date of the expiration of the payment period (two months for SMEs).

Where the tax amount to be paid is KRW 20 million or less, the excess of KRW 10 million may be paid in instalments; and where the tax amount to be paid exceeds KRW 20 million, 50% or less of the tax amount may be paid in instalments.

Functional Currency

In instances where the taxpayer adopts to use a foreign currency as its functional currency, there are three ways to calculate the CIT base: (i) calculate the tax base using the financial statements in functional currency and translate it into Korean won; (ii) prepare the financial statements in Korean won and calculate the tax base;

or (iii) translate the financial statements into Korean won and calculate the tax base. Once elected, the same method must be consistently used.

Tax Audit Process

For large companies whose sales revenue exceeds KRW 300 billion, a tax audit will be conducted every five years. Other companies are selected by certain standards, which were announced by the National Tax Service (NTS). An official notification of an intended tax audit must be made 15 days prior to the audit.

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 limitations is extended further in the following cases:

- Seven years if a taxpayer does not file its tax base by the statutory due date.
- Ten years if a taxpayer evades taxes by fraud or unjustifiable means.
- 15 years for fraud or unjustifiable means involving cross-border transactions. For this purpose, a 'cross-border' transaction means when a party or parties to the transaction include(s) non-resident(s) or foreign corporation(s) (excluding domestic business places of non-resident(s) or foreign corporation(s)).

Period of Extinctive Prescription for Collection of National Taxes

The period of extinctive prescription for collection of national taxes is five years (ten years for national tax payable worth KRW 500 million or more) from the date on which the government's right to collect a national tax becomes exercisable. Along with the five-year extinction prescription period of national tax collection, the extinction prescription period of tax refund request of taxpayers is extended to five years, which was previously three years from the tax return filing due date, effective for tax refund requests made on or after 1 January 2015.

Topics of Focus for Tax Authorities

The recent topics of focus for tax authorities are as follows:

- Implementation of new tax information reporting systems as planned in the BEPS project.
- Increased tax audit on tax avoidance through internal transactions or gifts among group companies and major shareholders.
- Increased scrutiny over the prevention of offshore tax evasion through a cross-border tax information exchange program.
- Selection of tax audit targets through a sophisticated analysing and verification system and expansion of the number of corporate taxpayers subject to the regular five-year period audit cycle.
- New provision in the National Tax Basic Law to add accounting credibility to the existing tax audit selection criteria. Accounting credibility includes auditor's opinion, hours spent for external audit, etc.
- Increased application of forensic and electronic audit schemes and use of big data analysis to examine potential tax avoidance.

Additionally, the tax policy that the newly elected president has pledged during his campaign should be noted. To finance spending on expanded social welfare investment, the taxation systems on corporate taxpayers and high income earners are expected to be reinforced.

Other Issues

Exchange Controls

Most transactions involving foreign exchange generally do not require approval or reporting under the Foreign Exchange Transaction Act (FETA), with a few exceptions as prescribed by the FETA. Receipt of foreign exchange from outside Korea is freely permitted, and payments to foreign companies are not regulated. Most restrictions on Korean companies' foreign currency transactions with foreigners have been removed. However, the government continues to monitor certain flows of foreign currency in an attempt to minimise incoming speculative currency and outgoing capital flight.

Advance reporting is required for most capital transactions. For example, foreign currency loans obtained by a Korean resident or loans provided by a Korean resident to an overseas resident should be reported in advance. Foreign currency deposits should also be reported in advance. The agency to which the reporting should be made again differs based on materiality of the transaction amount or transaction type.

In addition, reporting in advance to the appropriate agency is required for the netting of receivables and payables with a foreign resident, third party payments where a payment is made to a foreign resident other than the transaction counterpart, and cross calculation, which is similar to netting, but the concerned company opens a bank account in which the offsetting takes place for future receivables and payables.

Ever since Korea's currency crisis, most restrictions on short-term as well as mid and long-term borrowings from overseas by corporations have been removed. Most foreign currency loans are allowed and are subject to reporting to a foreign exchange bank. There are no specific regulations, except the reporting requirements, on borrowings from overseas by foreign investment companies in Korea.

Automatic Exchange of Tax Information

The Korea-United States (US) agreement on Automatic Exchange of Tax Information was ratified by the National Assembly on 7 September 2016. Based on the agreement, the tax authorities of both countries collect financial information on financial accounts held by individuals and entities and exchange this information. Korea-based financial institutions conduct their Foreign Account Tax Compliance Act (FATCA) due diligence procedures and report information on certain financial accounts held by US individuals and entities to the NTS, and then, the NTS will report this information to the US Internal Revenue Service (IRS). The type of information generally includes the name, address, tax identification number, account number, account balance as of the end of a relevant reporting period, and gross amount of income (such as interest and dividends).

Starting from 2017, Korea has exchanged with 53 countries, including the United Kingdom, Cayman Islands, British Virgin Islands, etc., certain information on financial accounts and income according to the Multilateral Competent Authority Agreements (MCAA). From 2018, Korea has exchanged such information with more countries because additional countries, including Switzerland, Singapore, etc., signed the MCAA. The NTS should be motivated to actively mobilise its infrastructure to exchange offshore financial and non-financial tax information for the purpose of pursuing taxpayers suspected of being engaged in offshore tax avoidance and conducting tax audits of such tax avoidance.

Choice of Business Entity

The following types of commercial entities are permitted in Korea:

- Corporation *(Hoesa)*: There are five classes of corporation, outlined as follows:
  - Limited corporation:
    - *Jusik Hoesa (JH):* 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.

    - *Yuhan Hoesa (YH):* 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.

    - *Yuhan Chegim Hoesa:* A corporation incorporated by one or more members, with each member's liability limited to the amount of that member's capital contribution. With significantly fewer restrictions for establishment and operation, *Yuhan Chegim Hoesa* provides more flexibility and self-control than *YH*.

  - Unlimited corporation:

    - *Hapmyong Hoesa*: A 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 corporation composed of one or more partners who have unlimited liability and one or more partners with limited liability.

- Partnership: *Hapja Johap* is a legal form of partnership allowed under the Commercial Code.

- Joint venture: A joint venture is generally established as a domestically incorporated corporation whose shareholders have limited liability regarding the obligations of the corporation under the Commercial Code.

- Branch: A foreign corporation can perform its business operation in Korea by setting up a taxable presence in the form of a branch office. The branch office can be classified as a corporation and be taxable under the CITL if one of the following conditions is met; otherwise, the foreign entity shall be classified as an individual and be subject to the Individual Income Tax Law:

  - The foreign entity is a corporation under the laws of one's home country.

  - The foreign entity is composed of only limited liability members.

  - The foreign entity has an independent ownership of assets or separate right of lawsuit from its members.
  - An entity similar to the foreign entity is classified as a corporation under Korean law.
- Liaison office: A foreign corporation can establish a liaison office, which is not allowed to execute income-generating business activities in Korea.
- Sole proprietorship: Sole proprietorships are not a legal form of entity in Korea.

Guidance on Taxation of an Off-Shore Partnership

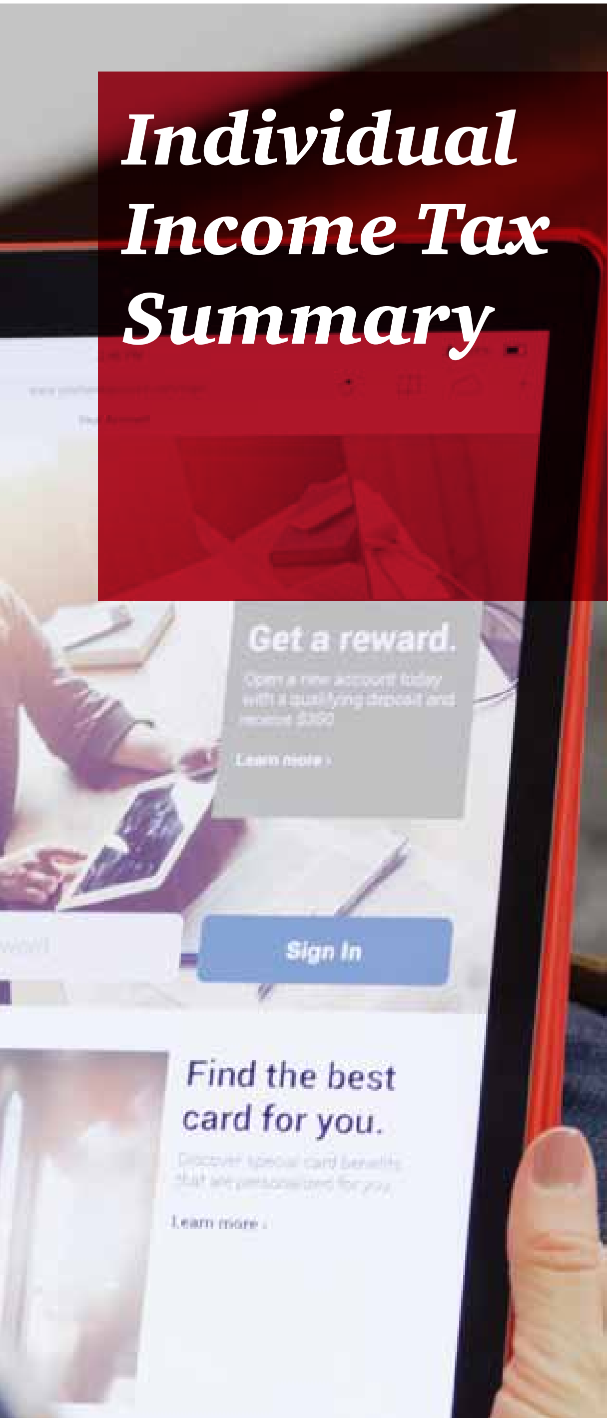
Under the CITL, a foreign corporation is defined as a corporation that has a head office or principal office in a foreign country (only if the foreign corporation shall not have the place of effective management in Korea).

Based on the nature of business, an off-shore partnership would be categorised as a foreign corporation if one of the following conditions is met:

- Has a legal personality.
- Only comprised of partners with limited liability.
- Has the legal rights and liabilities that are distinct from its members, including taking possession of assets or having the legal capacity to be a party against a law suit.
- The same or the most similar kind of domestic business entity constitutes a corporation under Korean laws.

Off-shore partnerships with a legal personality like corporate entities prescribed in the Korean Commercial Act, such as stock corporations *(Jusik Hoesa)*, limited corporations *(Yuhan Hoesa, Yuhan Chegim Hoesa)*, and unlimited corporations *(Hapmyong Hoesa, Hapja Hoesa)*, are treated as foreign corporations for Korean CIT purposes. Also, off-shore partnerships having the nature of limited corporations prescribed in the Korean Commercial Act, such as stock corporations *(Jusik Hoesa)* and limited corporations *(Yuhan Hoesa, Yuhan Chegim Hoesa)*, are treated as foreign corporations.

Individual Income Tax Summary



Significant Developments

The tax reform proposal announced by the Ministry of Strategy and Finance (MOSF) on July 30, 2018 includes important amendments to the Special Treatment Control Law which can potentially affect the personal income taxation of foreign employees working in Korea. Currently, foreign employees working in Korea may elect to have their employment income subject to a flat tax rate (rather than a progressive income tax rate with the highest marginal tax rate) for five years from the date they start working in Korea. This flat tax rate is supposed to apply for those who start to work in Korea by the end of December 2018. It is proposed to extend this flat tax rate until the end of December 2021. The proposed amendment will be effective if approved by the National Assembly around December 2018.

To reinforce taxation on high-income earning individuals, the amended tax law has increased a top-tier rate for income taxes. The earning per year from KRW 300 million to KRW 500 million will be subject to 40% income tax rate (excluding local income tax) and the earning of more than 500 million per year will be subject to a 42% income tax rate (excluding local income tax), respectively.

Taxes on Personal Income

A taxpayer in Korea, who is liable to pay the income tax on their income, is classified into resident and non-resident for income tax purposes *(see the 'Residence' section for more information)*.

A resident is subject to income tax on all incomes derived from sources both within and outside Korea. Foreign residents who have stayed in Korea for longer than five years during the last ten year period are taxed on their worldwide income. However, foreign residents who have stayed in Korea for five years or less during the last ten year period are taxed on Korea-source income, and foreign-source income is reportable only in the case where foreign-source income is paid by a Korean entity or transferred to Korea.

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 provisions concerning the tax rates and the filing procedures of residents shall apply to them. However, in calculating taxable income and tax amount, a non-resident is not entitled to claim any personal exemptions for their dependents (except for themselves), income deductions, and tax credits.

Personal Income Tax (PIT) Rates

The following tax table summarises the basic global income tax rates applicable for the income received from 1 January 2018 and thereafter.

Annual taxable income (KRW thousands)		Tax rate*	
Over (column 1)	Less than	Tax on column 1*	Marginal tax rate (%)
0	12,000	0	6
12,000	46,000	720	15
46,000	88,000	5,820	24
88,000	150,000	15,900	35
150,000	300,000	37,600	38

300,000	500,000	94,600	40
500,000		174,600	42

*Before applying the local income tax.

Local Income Tax

Besides the above PIT, there is also a local income tax that is assessed at a rate of 10% of the PIT rates.

- PIT is paid to the National Tax Service (NTS).
- Local income tax is paid to the city or the province that is the domicile of the taxpayer.

Annual taxable income (KRW thousands)		Tax rate	
Over (column 1)	Less than	Tax on column 1	Marginal tax rate (%)
0	12,000	0	0.6
12,000	46,000	72	1.5
46,000	88,000	582	2.4
88,000	150,000	1,590	3.5
150,000	300,000	3,760	3.8
300,000	500,000	9,460	4.0
500,000		17,460	4.2

Alternative Minimum Tax (AMT)

The AMT, with exceptions, will be calculated at the greater of 45% of income tax liability (35% applied to income tax liabilities of up to KRW 30 million) before exemptions or actual tax after exemptions.

The AMT is applied to business income of a resident individual and Korean-source business income of a non-resident individual, but it is not applied to employment income.

Residence

Territoriality and Residency

A taxpayer in Korea, who is liable to pay the income tax on their income, is classified into resident and non-resident for income tax purposes, as listed below.

- Resident: Any individuals having a domicile in Korea or having a residence within Korea for 183 days or more, individuals having an occupation that would generally require them to reside in Korea for 183 days or more, or individuals who are deemed to reside in Korea for 183 days or more by accompanying families in Korea or by retaining substantial assets in Korea. On the other hand, even when a person has a job overseas and stayed there for more than 183 days, but they have their general living relationship, including their family and property in Korea, they still can be regarded as a resident of Korea. Generally, residency is determined on a 'facts and circumstances' test, evaluated on an individual basis.
- 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 (see Tax treaties in the Foreign tax relief and tax treaties section for more information).

Other Taxes

Social Security Contributions

There are four types of social security contributions in Korea, namely: National Pension (NP), National Health Insurance (NHI), Employment Insurance (EI), and Worker's Compensation Insurance (WCI).

National Pension (NP)

Assuming the employee is enrolled as "workplace-based insured person" under the NP scheme, employers are required to contribute an amount equal to 4.5% of salaries to the national pension fund. Employees are also required to contribute an amount equal to 4.5% of their salaries. As such, the total contribution rate is 9% of salaries per annum with both the employer and the employee splitting the 9% contribution equally. The employee contributions to the NP scheme are deductible in calculating taxable income.

National pension contribution is capped at a monthly salary of KRW 4,680,000 and the maximum monthly pension contribution to be paid by an employee is KRW 210,600 (subject to change every July) for the period from July 2018 to June 2019.

Foreigners working in Korea are required to contribute to the NP 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 (see Social security agreements under the Foreign tax relief and Tax treaties section for more information).

Foreign participants (with few exceptions) withdrawing from the NP scheme due to a permanent departure cannot get a refund unless their home country has a social security agreement with Korea, or applies the same treatment to Koreans on a reciprocity rule in the absence of a social security agreement. Social security contributions paid to a foreign country are not deductible against Korean income under the Korean income tax law.

National Health Insurance (NHI)

In general, foreigners working in Korea are required to subscribe to the NHI program, which is mandatory for all foreign expatriates and employees who earn employment income in Korea.

Assuming the employee is enrolled as “workplace-based insured person” under the NHI scheme, as of 1 July 2018, the applicable premium rate, including long-term care insurance, is 6.7% of the monthly wages (capped at a monthly salary of KRW 99,249,039); split equally between employers and employees at approximately 3.35% each. The employee contributions to the NHI program are deductible in calculating taxable income.

By submitting relevant documents, certain foreigners can exempt themselves from the mandatory NHI scheme if they are already covered by insurance from their home country, foreign insurance company, or an employer that provides them with the equal or higher level of medical coverage as prescribed in the Korean NHI Law.

Employment Insurance (EI)

The obligation to contribute EI differs depending on the taxpayer's nationality and visa type. In general, a foreigner who holds a D-7, D-8, and D-9 (trade management) visa is required to participate in EI. Foreigners from certain countries are exempt from the EI obligation under a reciprocity principle, if the foreigner's home country does not require mandatory participation by Korean nationals' in the country's equivalent social security contribution.

Currently, the employee contribution rate for EI is 0.65%, but the EI rate for employers varies starting from 0.9% to 1.5% depending on the number of employees and type of industry. In other words, in addition to the 0.65% contributions to EI, employers are required to make 0.25%~0.85% contributions to employment stabilisation insurance and occupational competency development insurance.

Worker’s Accident Compensation Insurance (WCI)

WCI is a state-run social security program for workers with work-related injuries, disease or disability, or any circumstance exposed to danger that can result in death while at work. Making contributions to WCI is compulsory only for employers. The contribution rate is imposed by the social security office considering working environments (from 0.70% to 28.10% of total wages and payroll, depending on the type of industry).

Other

There is also a severance pay system that requires no employee contribution. Severance pay, or retirement income, is taxed separately from global income.

Consumption Taxes

Value-Added Tax (VAT)

All corporations and individuals that supply goods or services, regardless of whether for profit or not, are subject to 10% VAT. VAT is levied on supplies of goods and services, and on the import of goods into the country.

Certain basic commodities such as farm products, health services, government transactions and other specified transactions are exempt from VAT. Exported goods are zero-rated, i.e. no VAT is applied on the final sale.

VAT is actually borne by the final consumers, because the taxpayer pays VAT on its purchases (input tax) but charges VAT on its sales (output tax). The tax to be paid to the authorities is the difference between the taxpayer's output tax and input tax for a tax period.

Net Wealth·Worth Taxes

No net wealth·worth taxes exist in Korea at this time.

Inheritance, Estate, and Gift Taxes

The Inheritance and Gift Tax Law covers both gift tax and inheritance tax. Inheritance tax is imposed on the transfer of property without consideration as a result of death or if an individual is missing. Gift tax is imposed as a result of giving property with a donatives' intent and receiving consideration less than the market value of gift. The tax rates range from 10% to 50%, excluding local income tax, on the taxable income.

Gift tax is considered a supplement to inheritance tax. Thus gift tax is not imposed when inheritance tax has been imposed. If gift tax has already been imposed and inheritance tax is to be imposed on property including the gift property, the gift tax previously imposed is deducted from the inheritance tax.

No estate tax separate from inheritance tax exists in Korea.

Property Tax

An annual tax ranging from 0.07% to 5% is charged on the statutory value of land, buildings, houses, vessels and aircraft. Five times the property tax rate is applied to manufacturing facilities that are newly constructed or expanded in the Seoul metropolitan/concentrated area within five years after the relevant registration date.

Acquisition Tax

Acquisition tax is charged on the price of real estate, motor vehicles, construction equipment, golf membership, vessels, etc., of which acquisition cost exceeds KRW 500,000. The minimum rate is 1% effective for acquisition. A weighted rate is charged on acquisitions in the Seoul metropolitan/concentrated area or on acquisition of luxury items, such as villas, golf courses, and yachts.

Luxury and Consumption Taxes

The individual consumption tax (ICT) is assessed on certain goods and activities as enumerated in the ICT Law. The ICT only applies to those individuals, entities, and businesses described in the ICT Law; all other goods and services are not subject to the ICT.

In principle, the ICT applies to a person who manufactures and distributes taxable goods; a person who sells taxable goods, except for the customer who may occasionally sell a taxable good; a person who moves imported goods out of a bonded area; operators of taxable places such as a race course, Turkish bath, golf course, casino, etc.; operators of taxable entertainment establishments such as a cabaret, night club, saloon, etc.

Income Determination

Individual income can be categorised as taxable, non-taxable, or tax-exempt. Taxable income includes global income, capital gains, and severance pay, each of which is subject to tax on a unique tax calculation structure. There are certain elements of income on which the government has waived its taxing rights, whether or not an application for exemption is filed by an individual. There are other items of income for which a taxpayer can submit an application for tax exemption.

Global income is subject to global taxation and includes employment income (salaries, wages, bonuses, and other amounts received for employment services rendered), interest income, dividend income, personal business income including rental income, pension income, and other income (prize winnings, royalties, rewards, etc.).

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 paid or borne by a Korean entity (including a Korean office of a foreign corporation or a permanent establishment), or paid by a foreign entity but charged back (or to be charged back under a prior agreement) to a Korean entity. Such income is subject to payroll withholding taxes on a monthly basis.

Class B Employment Income

Employment income paid by a foreign entity but not claimed as a corporate tax deduction by the Korean entity through a recharge. 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. 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 (subject to change from 10% to 5% according to the tax reform proposal) of income tax payable.

Despite the above, the recently amended IITL requires a domestic company using foreign secondees to withhold payroll income tax at 19% when the domestic company pays service fees to the foreign corporation that has dispatched foreign secondees. The domestic company shall be subject to withholding obligation when all of the following conditions are met: (i) the total amount of service fees paid to a foreign corporation in return for services via foreign secondees exceeds KRW 2 billion per annum, (ii) the sales revenue of the domestic company exceeds KRW 150 billion or total assets exceed KRW 500 billion during the preceding fiscal year, and (iii) the domestic company engages in air transportation, construction business, and professional, scientific, technical service, and financial service business.

Special tax concession for foreigners working in Korea

Foreign expatriates and employees who will start to work in Korea no later than 31 December 2018 are able to apply for a flat income tax rate of 19% (excluding local income tax) on their employment income rather than the normal progressive income tax rates of between 6% and 42% (excluding local income tax). In this case, any other income deductions, tax exemption, and tax credit are forfeited. If a foreign expatriate or employee wants to choose the 19% flat tax application, they are 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 monthly withholding or year-end settlement. A foreign expatriate or employee can choose the 19% flat tax rate as a monthly employment income withholding tax (WHT) rate with submission of an application to Korean tax authorities.

For foreign national employees arriving to Korea after January 1, 2014 and no later than December 31, 2018, the flat tax rate is applicable for five-year period, starting with the 1st workday in Korea to the end of the tax year immediately preceding the year in which the five year anniversary of the 1st day of work falls. According to the recent tax reform proposal, it is proposed to extend this flat tax rate until the end of December 2021. But, it is still in the proposal stage, and it will be extended only if approved by National Assembly around December 2018.

Foreign national employees who started working in Korea prior to 1 January 2014 will be limited to claim the flat rate of tax for the year up to 31 December 2018.

In addition, the flat income tax rate is not applicable for foreigners working for a company that is regarded as a related party to the foreigner. A related party for these purposes is defined as: (i) a corporation where the concerned employee has a direct or indirect controlling influence on the corporation's management (i.e. 30% ownership) or (ii) a private company that is owned by a relative(s) of the concerned employee.

Non-taxable items of employment income

The following elements of employment income, among others, are excludable from salary income:

- Housing (not hotel) which is leased in the name of the employer and related costs paid by an employer directly to a landlord on behalf of an employee (except for a shareholding director). 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 a company car, driver, related maintenance and insurance expenses provided by an employer, provided that the car is owned or leased in the name of the employer and certain conditions (i.e. business usage ratio, mileage report etc.) prescribed under the Corporate Tax Law are met. Non-deductible expenses on the corporate tax return will be deemed as the concerned employee's salary.

The following elements of employment income, among others, are non-taxable:

- Pre-arranged, fixed allowance for a personal automobile used for business purposes, up to KRW 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 KRW 1 million (KRW 3 million for construction and deep-sea fishing) per month for furnishing service overseas.
- Meal costs of KRW 100,000 or less per month in case that the meal isn't provided by an employer.

Non-taxable income should be added back to reportable income when the flat tax rate is elected.

Equity Compensation

There is no taxable event at grant or on the vesting date of stock option as the stock option is taxed on exercise date. 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 exercise as employment income. However, stock options exercised by former employees would be treated as other income.

For any other equity based compensation such as restricted stock, restricted stock unit, the taxation point differs depending on the equity plan.

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 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 recognised 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.

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 withholding at source. Foreign resident taxpayers who have stayed in Korea for longer than five 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 income tax rates or 15.4%. Foreign resident taxpayers who have stayed in Korea for five 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 withholding at source. Foreign resident taxpayers who have stayed in Korea for longer than five years during the last ten 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 income tax rates or 15.4%. Foreign resident taxpayers who have stayed in Korea for five years or shorter during the last ten 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.

Financial income, including interest and dividends, shall be subject to global taxation in cases where the annual financial income exceeds KRW 20 million.

Pension Income

Pension income includes public pension income and private pension income. Public pension income includes national pension income, pension income for civil servants and veterans, etc. The national pension income shall be taxable while the national pension premium is fully tax deductible. Public pension income tax shall be withheld every month. Private pension income includes income received from individual retirement pension accounts, private pension deposits, severance pension based on defined contribution schemes, etc. Private pension income tax shall be withheld between 3% and 5%. In principle, pension income shall be taxed as global income. In case the amount of private pension income is less than KRW 12 million per annum, the taxpayer can choose either separate taxation or global taxation.

Other Income

Other income denotes specifically designated categories of income that could not fall into interest, dividend, business, employment, pension and retirement, and capital gains. It normally includes income derived from occasional activities that a taxpayer would not intend to continue and income earned from temporary activities without employment. The following are the examples of other income.

- Prize winnings and other similar money or goods.
- Money or goods in a lottery, sports betting game, etc.
- Fees for use of copyrighted materials received by any person other than the creator of the material.
- Royalties received as consideration for using films or tapes for radio or television broadcasting, or from such use of other similar assets or rights.
- Gains from the alienation of mining rights, fishing rights, industrial property rights, individual 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.
- 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.
- Bribe, taking a bribe for a favor given, etc.

Most other income, net of given deductions or actual expenses, is subject to a 22% tax withholding at source (including the local income tax).

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. These include gains from certain transfers of farmland and other real estate; gains from the transfer of a house, including land, per household with certain conditions; and gains from the transfer of listed stock (corporate equity share certificates). However, exceptionally, when the total stake of a shareholder together with any related parties (called major shareholder) in a listed company exceeds 1%, or total market value of the stock held by a shareholder is KRW 1.5 billion or more of threshold amount (to strengthen the tax base, the threshold amount will be lowered to KRW 1 billion on or after April of 2020 and further lowered to KRW 300 million on or after April of 2021, respectively.), the capital gains are taxed at the rate of 22% to 27.5% (if the holding period is less than one year, 33% would be applied), including the local income tax. If the stake is in a small and medium-sized company, the gains are subject to tax at 11% (including the local income tax).

Capital gains and losses shall be added up by each category (e.g. real estate, stock) on an annual basis. There are basic deductions of KRW 2.5 million per annum and a special deduction for retaining for a long-term period.

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

Effective 1 January 2016, capital gains tax will apply to income arising from derivative transactions. The affected derivative products will be KOSPI 200 futures and options and derivatives traded on international derivative exchanges (according to the tax reform proposal, the scope of the affected derivative products will be expanded). The basic tax rate will be 22%

including local income tax, but the government is authorised to apply a flexible tax rate of 11% for stocks transferred on and after 1 April 2018. Gains from derivative transactions will be separated from other income and will be eligible for a basic deduction (KRW 2.5 million a year). Those who earn income from derivative transactions must file a final income tax return and pay tax once a year and are exempt from the requirement to file a preliminary return. Financial investment companies must submit transaction details to the relevant tax office by the end of the next month following the end of the quarter when a transaction takes place.

Severance Pay

Severance pay received upon either retirement or leaving a company is included in an individual's taxable income but is taxed separately from global income or capital gains. A deduction depending on the service period and additional deduction depending on income level are available. The calculation method differs depending on the year in which the employee retires or leaves and the total service period of the employee.

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 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 USD 300,000 or more) for two years from the date the expatriate starts to render services in Korea.
- Wages and salaries received by a foreign researcher working in a qualified research centre for two years from the date the expatriate commences rendering services in Korea.

Under the tax reform proposal, the applicable period may be extended from two years to five years.

Deductions

Employment Income Deduction

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.

Amount of gross income (KRW thousands)		Deduction rate	
Over (column 1)	Less than	Deduction amount on column 1	Marginal deduction rate (% on excess)
0	5,000	0	70
5,000	15,000	3,500	40
15,000	45,000	7,500	15
45,000	100,000	12,000	5
100,000		**14,750**	**2**

Pension Premium Deduction

National pension contributions paid by a taxpayer based on National Pension Law, Veteran Pension Law, Civil Service Pension Law etc., is fully deductible.

Special Tax Credits·Deductions

Various special tax credits are available including but not limited to the following:

Tax Credits for Dependants

The tax credits amount to KRW 150,000 per child for up to two children and KRW 300,000 per child for the third and more.

Tax credit for charitable contributions

The tax credit rate is 15% for the donation amount up to KRW 20 million and 30% for the excess.

Tax credit for education expenses

The tax credit rate is 15% for education expenses with certain limits (KRW 9 million for each dependent attending university or college, KRW 3 million for each dependent attending preschool to high school, no limit for the taxpayer).

Tax credit for insurance premiums

Tax credit rate is 12% for qualified insurance premiums paid for the following types of insurance (beneficiary can be either the taxpayer or the dependents who have no income for the year): life insurance, life insurance for the handicapped, damage and accident insurance, fire and burglary insurance, and insurance similar thereto. The maximum tax credit is KRW 120,000 per annum. The national health insurance and unemployment insurance premiums shall be fully tax deductible.

Tax credit for medical expenses

Tax credit rate is 15% for medical expenses paid up to KRW 7 million, but only if they exceed 3% of total employment income. However, medical expenses paid for taxpayers aged 65 or older, or the handicapped, are not subject to the KRW 7 million limit for the tax credit.

Tax credit for individual pension premium

Tax credit rate is 12% for the pension premium paid up to KRW 7 million per annum. However, the tax credit rate becomes 15% for the taxpayer whose income is less than KRW 40 million per annum.

Mortgage interest deduction

A deduction for housing and long-term mortgage interest is available to wage earners who do not own a home, or who own only a house of a certain size, and who have subscribed to a particular savings program for home ownership.

Other Deductions

There are other itemised deductions available under the Special Tax Treatment Control Law. A taxpayer also must submit supporting documents to claim the following deduction:

- A deduction for expenditures paid by credit cards, cash receipts, debit cards, or check cards up to the certain limit depending on the nature of expenses and level of employment income.

Personal Deductions

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

Basic Deductions

- For the taxpayer: KRW 1.5 million per year. Non-residents of Korea are allowed to claim only the personal deduction for themselves.
- For a spouse who lives with the taxpayer and has an adjusted gross income of less than KRW 1 million per annum: KRW 1.5 million per year.
- For each eligible dependent who lives with the taxpayer and has an adjusted gross income of less than KRW 1 million per annum: KRW 1.5 million per year.

Additional Deductions

- Handicapped person in the taxpayer's household: KRW 2 million for each handicapped person. The handicapped person may be the taxpayer, spouse or other dependents.
- Person aged 70 or older: KRW 1 million for each taxpayer, spouse or dependent aged 70 or older in the taxpayer's household.
- Female taxpayer: KRW 500,000. To qualify for this additional deduction, the female taxpayer should be a head of household with dependents but no spouse or should be a married woman, and the qualifying female taxpayer should have an annual taxable

income of KRW 30 million or less (approximately KRW 40 million in total annual compensation).

- Single parent: KRW 1 million. In case a single parent claims the female taxpayer deduction above, only the single parent deduction of KRW 1 million is allowed.

Business Deductions

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.

Losses

Business losses excluding rental losses are deductible against employment income, pension income, other income, interest income, and dividend income in order to calculate the tax base. Unused losses can be carried forward for ten years. However, rental losses are deducible against only rental income and unused rental losses can be carried forward for ten years.

Capital losses are deductible only against capital gains. Unused losses may not be carried forward.

Foreign Tax Relief and Tax Treaties

Foreign Tax Relief

A tax credit for foreign income taxes paid abroad by Korean residents, up to a limit of the amount of Korean income taxes before the foreign tax credit times the ratio of foreign source income to worldwide total taxable income. Any excess over the maximum allowable credit may be carried forward for five years. Alternatively, foreign tax paid can be deducted from taxable income.

Tax Treaties

Double Taxation Avoidance Agreements

Korea currently has treaties with the below mentioned following countries as of June 2018:

Albania	Hungary	Papua New Guinea
Algeria	Iceland	Peru
Australia	India	Philippines
Austria	Indonesia	Poland
Azerbaijan, Rep. of	Iran	Portugal
Bahrain	Ireland	Qatar
Bangladesh	Israel, Rep. of	Romania
Belarus	Italy	Russia
Belgium	Japan	Saudi Arabia
Brazil	Jordan	Serbia
Brunei	Kazakhstan	Singapore
Bulgaria	Kenya	Slovakia
Canada	Kuwait	Slovenia
Chile	Kyrgyzstan	South Africa, Rep. of
China, People's Rep. of	Laos	Spain
Colombia, Rep. of	Latvia	Sri Lanka
Croatia	Lithuania	Sweden
Czech Republic	Luxembourg	Switzerland
Denmark	Malaysia	Tajikistan
Ecuador	Malta	Thailand
Egypt	Mexico	Tunisia
Estonia	Mongolia	Turkey
Ethiopia	Morocco	Turkmenistan
Fiji	Myanmar	Ukraine
Finland	Nepal	United Arab Emirates

France	Netherlands	United Kingdom
Gabon	New Zealand	United States
Georgia	Norway	Uruguay
Germany	Oman	Uzbekistan
Greece	Pakistan	Venezuela
Hong Kong	Panama	Vietnam

Tax Information Exchange Agreements (TIEAs)

Besides income tax treaties to avoid the double taxation, Korea concluded TIEAs with many countries, including certain tax havens and those that provisionally reached such agreements as of August 2018. TIEA coverage extends to Andorra, Bermuda, British Virgin Islands, and Cayman Islands, to name a few. TIEAs cover information required for the administration and enforcement of domestic tax laws, including details on taxpayer registration, corporate ownership details, companies' accounting records and financial statements of a specific transaction, and individual or corporate financial transaction information. TIEAs establish a framework for Korea to curb abusive tax avoidance transactions using tax havens, as well as unveil and levy taxes on offshore tax avoidance transactions. In addition, Korea is one of 100 countries that have joined the Multilateral Convention on Mutual Administrative Assistance in Tax Matters as of July 2018.

Social Security (Totalisation) Agreements

Korea currently has social security agreements in effect with Australia, Austria, Belgium, Brazil, Bulgaria, Canada, Chile, China, the Czech Republic, Denmark, Finland, France, Germany, Hungary, India, Ireland, Italy, Japan, Mongolia, the Netherlands, Poland, Quebec, Romania, Slovakia, Spain, Sweden, Switzerland, Turkey, the United Kingdom, the United States, and Uzbekistan as of August 2018. The social security agreements are intended to help those who have contributed premiums to the national pension plans of two different countries; it allows them to obtain benefit eligibility by combining total periods of coverage in both countries (i.e. totalisation). Nonetheless, the agreement must be reviewed since detailed provisions can vary depending on the respective agreement.

Other Tax Credits and Incentives

Tax Credits

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

Credit for Class A and Class B Wages

A maximum credit of KRW 740,000 per year is available for Class A and Class B wages:

Where the calculated tax amount is KRW 1,300,000 or less, the credit allowance is the calculated tax amount multiplied by 55%.

Where the calculated tax amount is more than KRW 1,300,000, the credit is KRW 715,000 plus 30% of the calculated tax amount in excess of KRW 1,300,000, subject to the maximum of KRW 740,000 per year.

Credit for Class B wages through a licensed taxpayers' association

A tax credit of 10% of the income tax is available for Class B wage earners who voluntarily report their monthly earnings and pay monthly income taxes through a licensed taxpayers' association. According to the tax reform proposal, the credit rate may be decreased to 5% on the employment income incurred after 1 January 2019.

Credit for dividend income

A tax credit of 11% of certain dividends received by each shareholder is available against the individual income tax calculated on global income, which is grossed-up by adding 11% of dividends received.

Credit for casualty losses

Where a business income earner has lost assets equivalent to 20% or more of the total value of the business assets due to disasters occurring during the year in question, an amount calculated according to the ratio of the loss shall be deducted for the income tax.

Tax Administration

Taxable Period

PIT will be assessed for one year from 1 January to 31 December. If a resident should move out of the country, relocating the domicile or residence, the PIT 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 tax year concerned except for certain specified cases. If a taxpayer fails to fulfil these 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. Employers are required to withhold income taxes at source on a monthly basis, finalise their employees' tax liability, and file the final tax settlement receipt with the tax authorities no later than 10th of March 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. According to the tax reform proposal, the credit rate will be decreased to 5% on the employment income incurred after 1 January 2019.

In case where an annual tax return is required, the relevant taxes shall be paid with the return due by 31 May of the following year.

Tax Audit Process

The tax authority in Korea is the National Tax Service (NTS). Audit targets are picked by random sampling. As part of the government's commitment to identify and tax the underground economy, a continued focus and close watch is placed on offshore tax avoidance and evasion, hidden assets of high net-worth individuals or businesses under borrowed names, suspected wealth transfers, and shadow cash transactions.

Statute of Limitations

The time limits to assess national tax are five years from the date when the national tax is assessable, unless otherwise are specified by the Basic National Tax Act. For example:

- 10 years with respect to an inheritance tax or gift tax.
- 10 years, if a taxpayer evades any national tax, or has it refunded or deducted, by fraudulent or other unlawful means.
- 15 years for fraud or unjustifiable means involving cross-border transactions. For this purpose, a 'cross-border' transaction means when a party or parties to the transaction include(s) non-resident(s) or foreign corporation(s) (excluding domestic business places of non-resident[s] or foreign corporation[s]).
- 7 years, if a taxpayer fails to file a written tax base by the statutory due date.
- 15 years, in case of the non-compliance with inheritance or gift tax return obligation or fraudulent or omitted filing or such tax or refund or deduction of such tax by unlawful means.

Topics of Focus for Tax Authorities

- The NTS established the Offshore Compliance Enforcement Center (OCEC) in November 2009 to prevent and investigate offshore tax evasion. The importance for the exchange of information among nations has become a major issue for the individual income tax administration.
- Korea has participated in the global initiatives led by the OECD and G20 to tackle offshore tax evasion and avoidance by concluding agreements to exchange tax information with an increasing number of countries.

Since being introduced at the end of 2010 in a bid to tighten control of offshore income and prevent cross-border tax evasion attempts, the requirements for reporting offshore financial accounts have been tightened. The law requires Korean residents or domestic companies to report their offshore financial accounts if the aggregate balance of these accounts exceed KRW 0.5 billion at the end of each month during the year. For these purposes, offshore financial accounts mean not only bank accounts, stock brokerage accounts, but also bonds, derivatives, or fund transaction-related accounts.

Law for reporting of specified financial transaction information

Regulations of the Act on Reporting and Using Specified Financial Transaction Information were amended to tackle tax fraud and evasion through financial transactions in borrowed names and suspicious cash transactions.

Effective 14 November 2013, the amended regulations require financial institutions to report to the Korea Finance Intelligence Unit (KoFIU): (i) suspicious transactions where there are reasonable grounds to suspect that the assets received with respect to the financial transaction are illegal or that a customer conducting the financial transaction is involved in money laundering activities (suspicious transaction report or STR) and (ii) daily cash transactions by a trader totalling KRW 20 million or more (currency transaction report or CTR). In this case, transaction details must be reported within 30 days from the transaction date.

The amended regulations expand the rights of the NTS to access data held by the KoFIU in instances where there is evidence of alleged tax evasion and where KoFIU data is used to collect taxes in arrears. In instances that are deemed more closely related to alleged tax evasion, the Act also requires the KoFIU to disseminate information to the NTS and the Customs Service. In addition, the scope of KoFIU raw data disseminated to law enforcement agencies, including the NTS, is expanded to include CTRs in the amount of KRW 20 million or more. Before the amendment, the dissemination scope was limited to STRs as specified in the law and data obtained from foreign FIUs.

In a bid to prevent possible abuse of FIU data, the Act imposes the reporting requirement for the KoFIU to the concerned CTR traders with respect to CTR raw data disseminated to law enforcement agencies, including the NTS and the Customs Service. However, the reporting may be postponed for up to one year if there is a risk of evidence destruction, administrative proceeding, obstruction to progress, etc.

Sample Personal Income Tax Calculation

Calendar Year 2018

Assumptions

- Foreign expatriate working in Korea - Resident.
- Married with two children (both are more than six years old but less than 20 years old).
- Spouse has no income.
- No tax reimbursement by company.
- No itemised deductions available.

Tax computation

	KRW
Gross income:	
Annual salary	100,000,000
Less:	
Employment income deduction	(14,750,000)
Adjusted gross income	85,250,000
Less:	
Personal deduction for taxpayer	(1,500,000)
Personal deduction for spouse and two children	(4,500,000)
Taxable income	79,250,000
Income tax	13,800,000
Earned income tax credit	(500,000)
Special tax credit	(130,000)
Children tax credit	(300,000)
Income tax after credit	12,870,000
Local Income tax (10% of income tax)	1,287,000
Total tax liability	14,157,000

Other Issues

Work Permits and Visas

Under the Korean Exit and Entry Control Act, a foreigner who wishes to reside in Korea must enter Korea using an entry visa which allows for 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. As a result, such a visa holder cannot become a resident of Korea. In this regard, under the Immigration Regulations, if a visa having a period of stay of 90 days or less is granted by a Korean Consulate outside Korea, the Consulate normally notifies the visa applicant that 'no extension will be allowed after entering Korea'.

In some cases, a foreigner who is a citizen of a country with which Korea has entered into a visa abolishment agreement (e.g. Britain) may enter Korea without a visa by obtaining a visa abolishment stamp at the Korean port of entry. However, if a foreigner has entered Korea by using a visa abolishment stamp, such a foreigner, in principle, cannot:

- obtain any visa status
- obtain any extension of the period of stay in Korea, or
- become a resident of Korea.

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 Foreign Investment Promotion Law (FIPL). Under this arrangement, employees of the foreign licensor would enter Korea for work under the TIC. Second, the 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.

Foreign Exchange Issues

Foreign exchange control in Korea originated with the enactment of the Foreign Exchange Control Law in 1961. The purpose of this law was to control the outflow of foreign exchange properly, use incoming foreign exchange in the process of economic development, and to cope with a chronic foreign exchange shortage effectively.

Foreign exchange control, through this law, mainly consists of fulfilment of transactions based on official exchange rates, obligation of concentration of foreign exchange, restriction on foreign payment and restriction on capital transactions.

Generally, residents of Korea are allowed to possess foreign exchange except for the cases set forth in the law.

The name of this law has been changed to the Foreign Exchange Transaction Act, and it has been revised several times. Even now it controls transactions with foreign countries and foreign payment/receipt, with the objectives of international balance equilibrium, stabilisation of currency and the effective operation of foreign currency funds.

In the past, restrictions on foreign payment were emphasised, and foreign receipt, in principle, was freely allowed. However, the method of foreign exchange control has been changed in a way to emphasise equilibrium of international balance and to prevent increase in domestic currency as a result of incoming foreign exchange.

As the government has been stepping up its efforts to clamp down on offshore tax evasion, rules of the Foreign Exchange Transaction Act have been amended to address such efforts. A change to the foreign exchange transaction regulations allows the Customs Service and the Financial Supervisory Service (FSS) to request each other access to the respective party's probing into foreign exchange transactions unless there is a justifiable reason to decline such a request. Effective from September 2013, the amended rules provide a legal framework to allow the Customs Service and the FSS to team up for the joint inspection of hybrid transactions. Previously, depending on the transaction type, the examination authority of foreign exchange transactions was divided between the Customs Service (commodity exports/imports) and the FSS (service and capital transaction).

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