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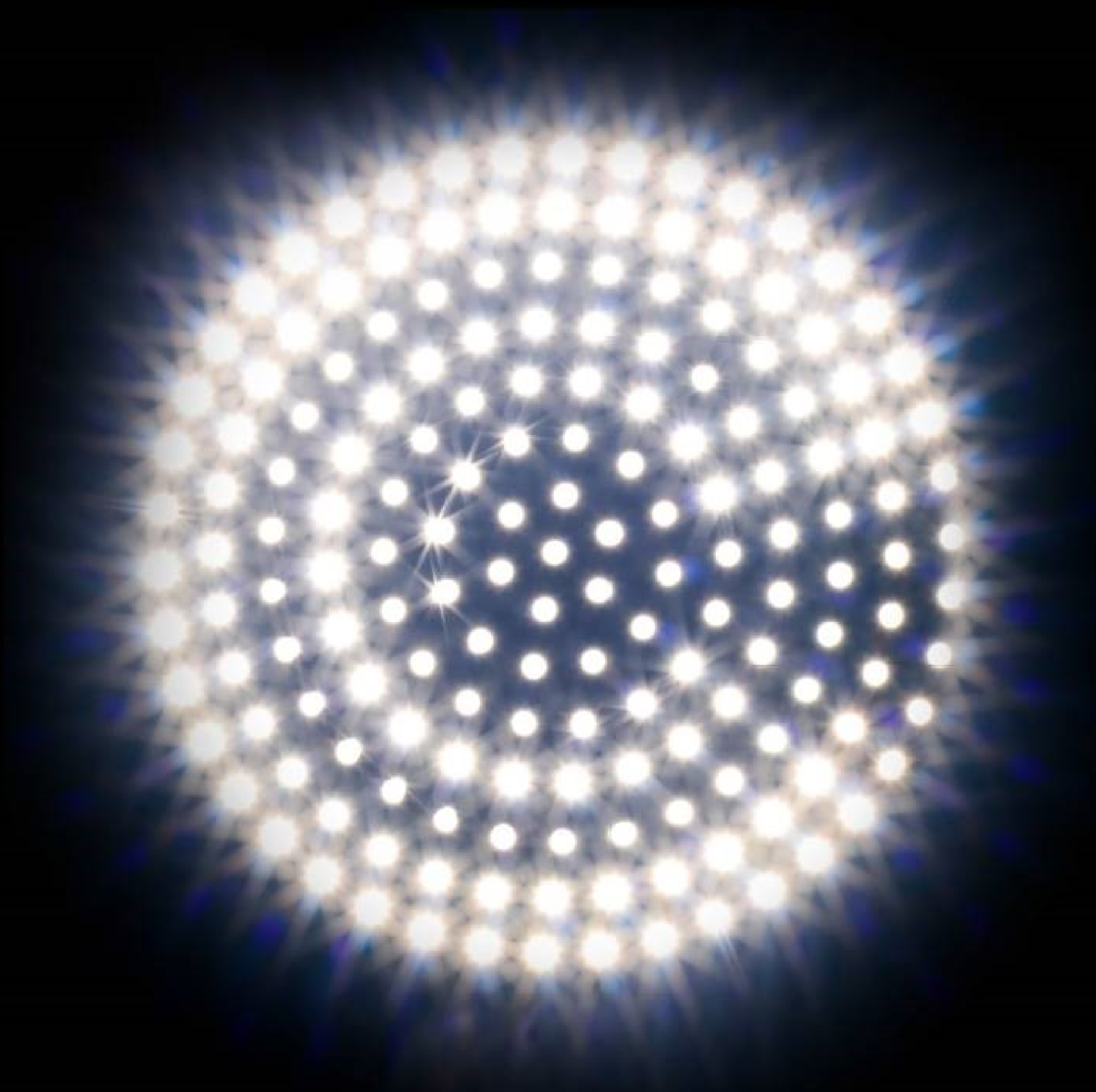

Taxation and Investment in Korea 2017

Contents

1.0 Investment climate

1.1 Business environment

Korea is a constitutional democracy. The president is directly elected as the head of state and chief executive, and serves a five-year term. The state council (or cabinet), which includes the president and the prime minister, is responsible for formulating government policy. The prime minister is appointed by the president. The national assembly (or parliament) has one chamber and members are directly elected every four years.

Korea has a large and important small and medium-sized enterprise (SME) sector. However, large conglomerates, the *chaebol*, dominate nearly every area of economic activity.

With its economy heavily weighted towards exports and dependent on imported raw materials and capital goods, Korea is one of the world's largest trading nations.

Korea is a member of the OECD.

OECD member countries

Australia	France	Korea (ROK)	Slovakia
Austria	Germany	Latvia	Slovenia
Belgium	Greece	Luxembourg	Spain
Canada	Hungary	Mexico	Sweden
Chile	Iceland	Netherlands	Switzerland
Czech Republic	Ireland	New Zealand	Turkey
Denmark	Israel	Norway	United Kingdom
Estonia	Italy	Poland	United States
Finland	Japan	Portugal	

Enhanced engagement countries

Brazil	India	Indonesia	South Africa
China			

OECD accession candidate countries

Colombia	Costa Rica	Lithuania

Price controls

Official price controls exist in a few areas, including farm products and telecommunications services. The president can control prices on a range of products through emergency decrees. There are administrative guidelines or informal bureaucratic rules that restrict competition in the local economy by limiting price fluctuations. Ministries with jurisdiction over the goods and services subject to price controls can require price adjustments.

Intellectual property

Patents, utility models, industrial designs, trademarks and copyrights are legally recognized in Korea and Korea's laws on intellectual property rights are aligned with the World Trade Organization's agreement on Trade-Related Aspects of Intellectual Property.

Patents are protected for 20 years from the date an application is filed under the Patent Act. The protection term can be extended for up to five years to compensate for time required to obtain regulatory approval for inventions. Trademarks are protected for 10 years from the date of registration, and protection is renewable every 10 years. Under the Trademark Act, a right is created only upon registration; once registered, the trademark is presumed valid and effective until it is invalidated or cancelled by an invalidation or cancellation trial.

Copyrights need not be registered to obtain protection for up to 70 years after the author's death. However, assignment or hypothecation of a copyright may be asserted against third parties only when copyrighted works are registered. The Copyright Act establishes instances where the works of foreigners can be protected in Korea.

Trade secrets are protected by the Unfair Competition Prevention and Trade Secrets Protection Act. The Copyright Act also provides 70 year protection for computer software programs.

Korea has acceded to the Protocol Relating to the Trademark Law Treaty and the Madrid Protocol, two treaties administered by the World Intellectual Property Organization, and is a party to the World Intellectual Property Organization Copyright Treaty.

1.2 Currency

The currency of Korea is the Won (KRW).

1.3 Banking and financing

The financial sector has undergone significant changes. The government has taken steps to improve bank governance, partly through the creation of a single-sector watchdog, the Financial Services Commission (FSC). The executive arm of the FSC is the Financial Supervisory Service. Attempts to improve risk management have been made by bringing Korea's regulations in line with international standards.

Korea's capital markets have become an important tool for modernizing the financial system. The Korea exchange is a world-class organized securities market.

The Bank of Korea is the central bank and Seoul is the financial center.

1.4 Foreign investment

Multinational companies may invest in all but a handful of protected industries, although some sectors still require local joint venture partners. Industrial parks exclusively for foreign companies provide incentives for foreign investment. Notification of, rather than approval by, the relevant authorities is the norm for foreign investment.

The Foreign Investment Promotion Act (FIPA) is the most comprehensive legislation governing foreign investment in Korea. The FIPA provides various benefits and tax incentives for foreign direct investment. The FIPA also specifies the initial investment procedures for different types of foreign direct investment. Invest Korea provides one-stop services for foreign investors by assigning a "project manager" to each foreign investment case to guide the client through the entire direct investment process, including residence status verification, investment registration, real property acquisition, factory permit acquisition and taxation.

To qualify as a foreign investment company under the FIPA, there must be an investment of at least KRW 100 million and the company must acquire 10% or more of the total issued and outstanding shares of a Korean company.

1.5 Tax incentives

The government offers investment incentives to companies engaged in certain high-tech activities or located in foreign investment zones, free economic zones, free trade zones and special industrial complexes. Incentives include the long-term lease of land, tax exemptions and tax deductions. Many of these incentives are found in the FIPA and the Tax Incentive Limitation Law (TILL).

Under the TILL, a tax exemption may be granted for new foreign investment in a company operating a high-tech business, or located in the foreign investment zone or the free economic zone, provided approval is obtained from the Ministry of Strategy and Finance (MOSF). The foreign investment company will be entitled to a full corporate income tax exemption for the first three or five years from the fiscal year in which taxable income is generated, and a 50% exemption for the next two years. Exemptions also will be granted from acquisition tax, registration tax and property tax.

In addition, a foreign investment company can lease land, factories or other property owned by the government for up to 50 years. In the case of a land lease, the foreign investment company may construct a plant or other facilities on the land, provided the plant or other facilities are donated to the government or the land is restored to its original state when the lease is terminated. A foreign investment company that satisfies certain conditions may be exempt from lease payments.

The National Assembly passed a bill to revise the TILL on 18 April 2017 in an effort to boost employment in the country. The major changes, which relate to tax credits, are as follows:

- For tax credits calculated on job creation investments made after 18 April 2017, the additional tax credit rates are increased from 4%-6% to 6%-8% for small and medium-sized enterprises (SMEs), and from 4%-6% to 5%-7% for medium-scale companies.
- The tax credit for increased employment of permanent employees between the ages of 15 and 29 is increased. The tax credit is calculated by multiplying a “credit amount” by the increase in the number of qualifying employees as compared to the prior fiscal year. The amendments increase the credit amount per additional employee from KRW 5 million to KRW 10 million and KRW 7 million for SMEs and medium-scale enterprises, respectively, and from KRW 2 million to KRW 3 million for large companies. The changes apply from the company’s fiscal year that includes 18 April 2017.
- The tax credit granted for converting temporary employees to permanent status is expanded to apply to medium-scale companies (previously, the credit was granted to only SMEs). The tax credit for medium-scale companies is KRW 5 million per converted employee. Additionally, the credit amount for each converted employee is increased for SMEs from KRW 2 million to KRW 7 million. The new rules apply from the company’s fiscal year that includes 18 April 2017.

1.6 Exchange controls

The MOSF and the Bank of Korea operate Korea’s foreign exchange (forex) system.

Korea has made significant progress in liberalizing its forex regime. Forex transactions in connection with foreign direct and portfolio investment in Korea generally have been liberalized; the only exceptions are transactions involving offshore KRW, since liberalizing these would have a destabilizing effect on the money supply. However, some controls and reporting requirements on forex payments by businesses and individuals remain in place. Foreign loans in excess of a specified amount must be reported in advance to the Ministry of Strategy and Finance. Loans granted to foreign borrowers also must be reported to the Bank of Korea.

Korean law guarantees the free repatriation of approved capital, as well as the free remittance of dividends and profits. However, forex banks conducting business with foreign investors must verify the legitimacy of such transactions.

2.0 Setting up a business

2.1 Principal forms of business entity

Foreign investment may take the form of an incorporated subsidiary, a joint venture or a branch of a foreign company.

Under the Korean Commercial Code, a company can be set up as a joint stock company (*Chusik Hoesa* or JSC), limited liability company (*Yuhan Hoesa/Yuhan Chaekim Hoesa* or LLC), unlimited partnership company (*HapMyung*) or limited partnership company (*HapJa*). Unlimited or limited partnership companies rarely are used in Korea. Foreign investors generally use the JSC, which has several attractive features: a JSC may issue a variety of investment securities, including preferred shares, bonds and debentures; after formation, the number of shareholders is not limited; and the JSC is a familiar form of corporate entity, easily accepted by the Korean authorities and the business community.

Formalities for setting up a company

Foreign investors must follow the same procedures as their domestic counterparts when establishing a JSC or an LLC, and must be granted the same level of treatment and protection. However, no permit or license is required.

Articles of association must be drawn up and notarized to set up a JSC or an LLC. A foreign investment company may be established before the full contribution of foreign cash or capital goods, if the criteria for organizing a company are satisfied.

It is important to distinguish a "foreign investment enterprise" (i.e. a wholly-owned or joint venture subsidiary) under the foreign direct investment provisions of the FIPA from a branch or liaison office. There is no minimum investment requirement for the latter, but the foreign direct investment incentives available under the FIPA usually do not apply to branches or liaison offices.

Forms of entity

Requirements for a joint stock corporation and limited liability company

Capital: *Both*: There is no minimum capital requirement. Contributions in kind are allowed for shareholders or members. The capital must be deposited in the domestic currency.

Founders, shareholders: *Both*: There must be at least one founder.

Directors: *JSC*: There must be at least three directors (one or two for companies with capital of less than KRW 1 billion), but there are no nationality or residence requirements. At least one-fourth of the board members of companies listed on the Korea stock exchange must be nonexecutive directors (half of the board and at least three directors for large firms with assets of KRW 2 trillion or more). *LLC (Yuhan Hoesa)*: There must be at least one director, but there are no nationality or residence requirements. *LLC (Yuhan Chaekim Hoesa)*: There are no requirements regarding directors.

Types of share: *JSC*: JSCs are permitted to issue shares with no par value. Shares may be registered or bearer, common or preferred. JSCs are able to issue common shares with no voting rights, up to one-quarter of the total shares. *LLC (Yuhan Hoesa)*: At the time of incorporation, the articles of incorporation must contain the number of contribution units by members, and each member must pay the full amount of the contribution. The amount of each contribution unit for the LLC may not be less than KRW 100. Each member must have shares in the company in proportion to the number of his/her contribution units. *LLC (Yuhan Chaekim Hoesa)*: At the time of incorporation, the articles of incorporation must contain the contribution type and contribution amount of each member and the total capital amount.

Control: *JSC*: More than 50% of shares usually constitutes an effective majority. Ordinary decisions (such as the appointment of a director or approval of the annual financial statements) require approval by a majority of the voting rights held by attending shareholders, and at least one-fourth of the total outstanding shares. Special decisions (e.g. amendment of the articles of incorporation, reduction of paid-in capital, share splits, retirement of shares, transfer of all or part of the business, mergers and acquisitions or dissolution of the company) require approval by no less than two-thirds of the voting rights held by attending shareholders, and at least one-third of the total outstanding shares. *LLC (Yuhan Hoesa)*: Ordinary decisions require approval by a majority of the voting rights held by attending members, and a majority of the total votes. Special decisions require approval by the affirmative votes of a majority of all members, and of three-fourths of the total votes. *LLC (Yuhan Chaekim Hoesa)*: For ordinary decisions, the rules are the same as for a *Yuhan Hoesa*; special decisions require a unanimous vote.

Branch of a foreign corporation

All foreign companies—except those in businesses where foreign investment is restricted—may set up a branch in Korea. Notification for establishing a local branch is processed in a matter of days. Upon acceptance, the establishment of a branch is completed on registration at a relevant tax office and the court registry. Additional approval may be required from relevant ministries, depending on the industry involved (e.g. the FSC must authorize banks, securities companies and other types of financial institution).

Branches may not own shares in Korean companies. Branches may be established as either repatriating or nonrepatriating entities.

A branch office of a foreign corporation generally is taxed in the same manner as a domestic company. A foreign branch is free to repatriate its earnings through a commercial bank designated by a foreign investor. However, a branch tax may be levied if provided for under an applicable tax treaty, based on the reciprocity principle.

Liaison office

A foreign company may set up a liaison office in Korea to carry out nonprofit-generating (and thus, nontaxable) business activities. To establish a liaison office, prescribed documents must be submitted and approval must be obtained from the relevant authorities. Under Korean tax law, a liaison office is a nontaxable entity that may carry out only preparatory and auxiliary types of activity. However, a liaison office must file a withholding tax return for salary income paid to employees. Input VAT on certain listed items (such as rental fees, meals, communication fees, etc.) may be refunded upon submission of relevant documents to the tax office.

2.2 Regulation of business

Mergers and acquisitions

The FIPA distinguishes between the acquisition of newly-issued shares and the acquisition of outstanding shares. Foreign direct investment through the acquisition of newly-issued shares involves the establishment of a wholly-owned subsidiary or participation in a capital increase by an existing firm. The acquisition of outstanding shares may take place as a direct transaction between foreign investors and domestic shareholders or through a purchase of negotiable securities on the stock market. Foreign direct investment through the acquisition of newly-issued shares requires prior notification to the Minister of Trade, Industry and Energy and the Bank of Korea or the foreign exchange bank. Penalties are imposed for noncompliance.

Financial regulators enforce a 5% rule as part of their takeover regulation, which requires most new share ownership of 5% or more, and subsequent increases in the stake by 1% or more, to be reported to the FSC and the Korea stock exchange. An investor acquiring 5% or more of a listed company must declare the nature of the investment to the FSC up front.

Tax-free merger

The following requirements must be met for a merger to be tax-free under the Corporate Income Tax Law:

- The minimum ratio of the total value of stock issued by the surviving company to the total merger consideration received by shareholders of the merged company must be at least 80% (and the majority shareholders of the merged company must hold the shares until the end of the fiscal year when the merger is registered);
- The merger must be between domestic companies that have operated their businesses for at least one year as at the merger registration date; and
- The surviving company must continue to operate the business of the merged company until the last day of the fiscal year in which the merger registration date falls.

A merger basically is regarded as a sales transaction rather than a liquidation of a merged company. Therefore, if the merged company derives a capital gain (or incurs a loss) on the merger, it would be included in the merged company's taxable income. However, for a qualified tax-free merger (or a merger with a wholly-owned domestic subsidiary or a merger between wholly owned subsidiaries of a single domestic parent company), there would be no capital gain (or loss) to the merged company, since the merger transaction is deemed to take place at book value.

The surviving company is deemed to purchase the assets of the merged company at fair value as at the merger registration date. In such a case, the difference between the merger consideration and the total fair value of the merged company's assets as at the merger registration date will be treated as goodwill (or negative goodwill), to be amortized over five years from the merger registration date for tax purposes. However, for a qualified tax-free merger (or a merger with a wholly-owned domestic subsidiary or a merger between wholly owned subsidiaries of a single domestic parent company), there would be no goodwill or negative goodwill for the surviving company, since the assets of the merged company are carried over to the surviving company at book value.

For a qualified tax-free merger, tax loss carryovers and all "temporary difference" items of the merged company will be transferred to the surviving company.

Monopolies and restraint of trade

Chaebol conglomerates dominate Korea's major export industries: cars, electronics, telecommunications, shipbuilding, steel and petrochemicals. Their control of domestic-directed industries, such as financial services and retail, is equally firm.

Korea's regulation of monopolies and market dominance is complex as a result of the combination of the Monopoly Regulation and Fair Trade Act (MRFTA), its enforcement decree and subsequent rules and numerous administrative guidelines. The law places a variety of special restrictions on large corporations. The MRFTA lists many types of anti-competitive behavior, such as predetermining the prices and terms of business transactions, restricting market entry or business activities of an enterprise and encouraging collusion among businesses. Violations result in substantial penalties, which may include criminal prosecution at the request of the Fair Trade Commission.

2.3 Accounting, filing and auditing requirements

Financial statements (income statement, balance sheet, statement of cash flows, statement of changes in equity and statement of appropriation of retained earnings) and a business report must be filed each accounting year.

Firms listed on the Korea stock exchange and corporations with total assets of at least KRW 12 billion as at the previous year-end must be audited annually by external accountants and must submit annual (quarterly for listed corporations) reports to the FSC. Consolidated financial statements are mandatory.

Listed companies and unlisted financial institutions are required to adopt K-IFRS (Korea- International Financial Reporting Standards). However, unlisted companies may choose either K-IFRS or Korean Generally Accepted Accounting Standards (K-GAAP) for financial accounting. Certain provisions of the tax laws (e.g. depreciation, foreign currency translations) have been amended to reflect the adoption of K-IFRS.

3.0 Business taxation

3.1 Overview

Korea levies both national and local taxes. National taxes comprise corporation income tax, surtax, minimum tax, value added tax (VAT), excise tax, education tax and security transaction tax. In addition to national taxes, local taxes such as the local income surtax, local inhabitants tax, acquisition tax and registration tax may be levied. Korean branches of foreign companies may be required to pay a branch tax in addition to the corporation tax if the imposition of a branch tax is allowed under an applicable tax treaty, based on the reciprocity principle. The taxation of foreign investment enterprises in Korea remains a complex issue governed by several laws, as well as tax treaties.

The most relevant laws include the Corporate Income Tax Law, the FIPA, the TILL and the Law for the Coordination of International Tax Affairs (LCITA). Taxes are administered and collected by the National Tax Service (NTS).

The Corporate Income Tax Law distinguishes domestic corporations from foreign corporations for tax purposes, although many of the provisions governing the taxation of domestic corporations apply to foreign corporations as well (however, they usually are superseded by relevant provisions in tax treaties, the FIPA, the TILL and the LCITA). The FIPA and TILL provide the basis for many special tax incentives for foreign investors, including manufacturing businesses with high technology, certain types of services and businesses in foreign investment zones and free trade zones (see Section 1.5, above).

Korea Quick Tax Facts for Companies

Corporate income tax rate	Progressive from 10%-22%
Local income surtax rate	Progressive from 1%-2.2%
Accumulated earnings tax	10% tax on 30%/80% of adjusted taxable income, reduced by certain items
Agricultural/fisheries surtax	20% (where applicable)
Minimum tax	Progressive from 10%-17% (7% for SMEs)
Branch tax rate	Progressive from 10%-22%
Capital gains tax rate	Progressive from 10%-22% for resident companies; lesser of 11% of proceeds received or 22% of gain realized for nonresident companies (including 10% local income surtax)
Basis	Worldwide for resident companies (Korean-source income for nonresident companies)
Participation exemption	No
Loss relief	
• Carryforward	10 years
• Carryback	No, except for SMEs (one year carryback)
Double taxation relief	Yes
Tax consolidation	Yes
Transfer pricing rules	Yes
Thin capitalization rules	Yes
Controlled foreign company rules	Yes
Tax year	Accounting period
Advance payment of tax	Yes

Return due date	Within 3 months of the end of the fiscal year
Withholding tax	
• Dividends	20% (plus surtax)
• Interest	14%/20% (plus surtax)
• Royalties	20% (plus surtax)
• Technical service fees	20% (plus surtax)
• Branch remittance tax	Generally no, but 5%-15% branch tax may apply, based on a tax treaty and the reciprocity principle
Capital registration tax	0.48% or 1.44%
Social security contributions	Varies
Real property tax	0.24% to 0.6% (including surtax)
Security transaction tax	0.3% for listed shares; 0.5% otherwise
Acquisition tax	Varies
Registration tax	0.02%-5% (plus surtax)
Local inhabitants tax	Varies
VAT	10%

3.2 Residence

A company is resident in Korea if its headquarters or place of effective management is located in Korea.

3.3 Taxable income and rates

A resident company is taxed on worldwide income. A foreign corporation (i.e. one with a permanent establishment (PE) or source of income in Korea but with a head office outside Korea) is taxed only on Korea-source income. A foreign company will be deemed to have a PE in Korea if:

- It has a fixed place of business in Korea where the entity's business is wholly or partly carried on;
- The foreign company carries out business through an agent who performs certain important activities on behalf of the foreign company, such as concluding contracts; or
- The employees of the foreign company provide services in Korea for more than six months during any consecutive 12-month period or the employees render similar types of service continuously or repetitively over a two-year period, even if each service period does not exceed six months in a consecutive 12-month period.

Rates

The corporation tax rate is 10% on the first KRW 200 million of taxable income; 20% on taxable income above KRW 200 million and up to KRW 20 billion; and 22% on the excess. In addition, corporations (both domestic and foreign) are subject to a local income surtax of 10% of the computed corporate income tax before the application of tax credits and exemptions (i.e. 1% on the first KRW 200 million; 2% for the tax base between KRW 200 million and KRW 20 billion; and 2.2% on amounts in excess of KRW 20 billion). A local income surtax return must be filed.

Where a corporate taxpayer claims certain TILL tax credits or exemptions, a 20% agriculture and fishery surtax is levied on the reduced corporate income tax liability.

Corporate taxpayers also are subject to a minimum tax that is imposed at a rate of 10% on taxable income up to KRW 10 billion; 12% on taxable income above KRW 10 billion and up to KRW 100 billion; and 17% on taxable income exceeding KRW 100 billion. A flat rate of 7% applies to SMEs and large companies within a four-year SME grace period, after which an 8% rate applies for large companies for the following three years and a 9% rate applies for two additional years. Even if a taxpayer benefits from tax incentives, such as tax credits or exemptions, a taxpayer must pay at least the minimum tax. The minimum tax is calculated as the tax base (before applying tax credits or exemptions subject to the minimum tax) multiplied by the applicable minimum tax rate. Some tax incentives may not be utilized where the tax liabilities after the tax incentives are less than the minimum tax.

Taxable income defined

The taxable income of a domestic corporation is its gross worldwide income, less certain nontaxable items. Taxable income includes profits, capital gains, rents, royalties, etc. Foreign-source income earned by a domestic company is taxed at the normal corporate income tax rate, with double taxation avoided through a foreign tax credit.

Dividends received by a resident corporation are treated as part of taxable corporate income. However, a dividends received deduction (DRD) is available for dividend income received by a Korean resident corporation from another Korean corporation. The DRD ratio ranges from 30% to 100%, depending on whether the parent company is a qualified holding company under the relevant Korean law and on the ownership percentage of the parent.

Dividends received from a foreign company are, in principle, subject to corporate income tax in Korea, but the company receiving the dividends may be eligible for an indirect foreign tax credit for foreign income taxes paid by the foreign company in its country of residence.

Deductions

Standard operating expenses are deductible from income. In addition, a company may deduct various kinds of payments to a foreign affiliate, including payments for direct purchases, interest, royalties, shared expenses and management fees. However, this privilege is subject to rigorous review by the tax authorities. Some taxes paid, including certain foreign taxes and local taxes (such as property and car taxes), may be deducted from income.

Tax relief is available if a corporation suffers damage in a natural disaster or undertakes investment in facilities to improve productivity.

Depreciation

The depreciation of assets is allowed based on the statutory useful life of assets, using the following methods: the straight-line method for buildings and intangible assets; the declining-balance or straight-line method for tangible assets other than buildings, vehicles and mining equipment; and the units-of-production or straight-line method for mining rights and fixed assets used in mining.

The useful life and the depreciation rate for fixed assets are prescribed by the tax law. When valuing inventory assets, a corporation may elect for either the cost method or the lower-of-cost-or-market-price method.

Losses

Companies may carry forward losses for 10 years. As from 1 January 2016, companies other than SMEs may utilize tax loss carryforwards to set off only 80% of taxable income for a fiscal year. A one-year carryback is available for SMEs; otherwise, losses may not be carried back. See Section 3.7, "Consolidated returns," for the rules regarding losses of a company in a group.

3.4 Capital gains taxation

Capital gains or losses usually are included in income subject to corporation tax. Capital gains received by nonresidents are taxed at the lesser of 11% (including the local surtax) of the sales price or 22% (including the local surtax) of the gains. In general, no special taxes are levied on gains from mergers if the tax-free merger conditions are satisfied (see Section 2.2, above).

Foreign companies and foreigners holding less than 25% of the outstanding shares of a listed company for five years before the share transfer are exempt from tax, regardless of whether a tax treaty applies. Otherwise, the treatment of capital gains derived by nonresidents depends on the provisions of an applicable tax treaty.

3.5 Double taxation relief

Unilateral relief

Korea provides for a tax credit for tax paid on foreign income, which may be credited against the Korean income tax liability. The amount of the credit is limited to the lower of the foreign taxes actually paid or the additional tax in Korea resulting from the inclusion of the foreign income. Unutilized credits may be carried forward for up to five years.

Tax treaties

Korea has a broad tax treaty network, the aim of which is to eliminate double taxation and provide for reduced rates of withholding tax on dividends, interest and royalties. Most of Korea's treaties are based on the OECD model treaty, providing relief from double taxation on all types of income, limiting the taxation by one country of companies resident in the other and protecting companies resident in one country from discriminatory taxation in the other. Korea's treaties generally contain OECD-compliant exchange of information provisions.

A foreign company that is a beneficial owner of Korean-source income and that wishes to obtain a reduced tax rate under an applicable tax treaty must submit an application before the income is paid. If the withholding agent is not provided with the application, it should withhold tax at the Korean domestic withholding tax rate.

Korea was one of the 68 countries that signed the OECD multilateral instrument on 7 June 2017.

Korea Tax Treaty Network

Albania	Finland	Luxembourg	Serbia
Algeria	France	Malaysia	Singapore
Australia	Gabon	Malta	Slovakia
Austria	Georgia	Mexico	Slovenia
Azerbaijan	Germany	Mongolia	South Africa
Bahrain	Greece	Morocco	Spain
Bangladesh	Hong Kong	Myanmar	Sri Lanka
Belarus	Hungary	Nepal	Sweden
Belgium	Iceland	Netherlands	Switzerland
Brazil	India	New Zealand	Tajikistan
Brunei	Indonesia	Norway	Thailand
Bulgaria	Iran	Oman	Tunisia
Canada	Ireland	Pakistan	Turkey
Chile	Israel	Panama	Turkmenistan
China	Italy	Papua New Guinea	Ukraine
Colombia	Japan	Peru	United Arab Emirates
Croatia	Jordan	Philippines	United Kingdom
Czech Republic	Kazakhstan	Poland	United States
Denmark	Kuwait	Portugal	Uruguay
Ecuador	Kyrgyzstan	Qatar	Uzbekistan
Egypt	Laos	Romania	Venezuela
Estonia	Latvia	Russia	Vietnam
Fiji	Lithuania	Saudi Arabia	

3.6 Anti-avoidance rules

Transfer pricing

Under Korea's transfer pricing rules, the tax authorities may make an adjustment to a resident taxpayer's income where the price in a cross-border transaction between a domestic party and its foreign related party is either less than or above an arm's length price. The following methods may be used in determining the prices: comparable uncontrolled price method; resale price method; cost-plus method; and any other reasonable method, including the profit-split method or transactional net margin method.

Documentation requirements apply for transfer pricing purposes. The NTS requires a taxpayer to submit transfer pricing documentation with its tax return, including a statement of international transactions, the arm's length price and a summary income statement for foreign related parties. Penalties are imposed where a corporation fails to timely file a report of international transactions with foreign related parties. In addition, the statute of limitations period is extended to 15 years for "unjust acts" involving cross-border transactions, and a 60% penalty rate in the case of a failure to report or underreporting of taxable income applies to "unjust acts" involving cross-border transactions.

Domestic companies and PEs of a foreign company that have annual sales of more than KRW 100 billion and a transaction volume with foreign related parties of more than KRW 50 billion per year are required to submit additional transfer pricing documentation (i.e. a comprehensive report on cross-border transaction information, including a "master file" and a "local file") within 12 months of the fiscal year-end. In a case where all or a part of the local and master file is not submitted or false information is submitted, a penalty of KRW 100 million will be imposed.

Both unilateral agreements and bilateral advance pricing agreements (APAs) are available. A simplified unilateral APA program applies for small and medium-sized foreign businesses.

Country-by-country (CbC) reporting

For fiscal years commencing on or after 1 January 2016, CbC reporting is required by:

- The ultimate domestic parent company of a multinational group, whose consolidated revenue for the preceding year exceeds KRW 1 trillion; and
- The Korean subsidiary or Korean branch of foreign headquartered multinationals whose consolidated revenue for the preceding year exceeds EUR 750 million, where the parent company is located in a jurisdiction that either does not require the parent to prepare a CbC report or that has not agreed to the exchange of CbC reporting information with the Korean tax authority.

The CbC report needs to include information on country specific revenue, profit or loss before income tax, tax payable, capital amount, main business activities, etc. by respective jurisdiction.

A taxpayer whose ultimate domestic parent company or ultimate foreign controlling shareholder has consolidated revenue for the preceding year exceeding KRW 1 trillion or EUR 750 million, respectively, must advise the Korean tax authorities within six months from the fiscal year-end which group entity will submit the CbC report. The CbC report itself must be submitted within 12 months of the fiscal year-end.

Thin capitalization

Korea's thin capitalization rules impose a 2:1 debt:equity ratio (6:1 for financial companies). Where the debt:equity ratio is exceeded, the interest on excess borrowings may not be deducted. The rules apply to loans from related foreign controlling shareholders, as well as from "sister" companies abroad. The types of loan covered include nonbinding payment guarantees, such as commitments made under comfort letters. A related foreign controlling shareholder includes the head office, a sister company or a foreign entity directly or indirectly owning 50% or more of the shares in a Korean company; or a foreign entity that substantially controls a Korean company.

Controlled foreign companies

The CFC rules require the current taxation of profits of companies located in a low tax jurisdiction.

The CFC rules apply when a Korean resident (corporate or individual) owns directly or indirectly 10% or more of the issued shares of a foreign company, and the foreign company's average effective income tax rate for the three most recent consecutive years is 15% or less. In this case, the Korean resident is deemed to have received dividends from the CFC in an amount equal to the "deemed distributable retained earnings" multiplied by the shareholding ratio, even though there has been no actual distribution of such retained earnings to the Korean resident. The deemed dividend amount is basically the total distributable retained earnings, adjusted by previous deemed dividend amounts taxed to the Korean parent company, mandatory reserves, share valuation gain/loss, etc. The CFC income is included in the taxable income of the Korean parent company in the tax year to which the 60th day from the CFC's fiscal year-end belongs.

General anti-avoidance rule

The Corporate Income Tax Law contains a substance-over-form rule that allows the NTS to recharacterize a transaction based on its substance. Under the substance-over-form rule, a series of transactions may be collapsed when the purpose of such transactions is to evade taxes.

Under the general anti-avoidance rule for domestic transactions, where the tax burden of a company has been unjustly reduced through unfair transactions with related parties, the tax authorities may calculate the income amount of the relevant company based on the fair market value that would have been established between independent companies engaged in similar transactions under comparable circumstances.

BEPS measures

The following table summarizes the steps Korea has taken to date to implement the BEPS recommendations:

Action	Implementation
VAT on business to customers digital services (Action 1)	Legislation is completed.
Hybrids (Action 2)	Not yet known.
CFCs (Action 3)	Korea already has CFC rules. It is unknown whether these rules will be further revised.
Interest deductions (Action 4)	Legislation is completed.
Harmful tax practices (Action 5)	Not yet known.
Prevent treaty abuse (Action 6)	Korea is beginning the process of renegotiating some tax treaties (e.g. with the Czech Republic) to reflect the recommendations of BEPS project.
Permanent establishment status (Action 7)	Not yet known.
Transfer pricing (Actions 8-10)	Not yet known.
Disclosure of aggressive tax planning (Action 12)	Not yet known.
Transfer pricing documentation and CbC reporting (Action 13)	Legislation is implemented (see Country-by-country (CbC) reporting, above).
Dispute resolution (Action 14)	Not yet known.
Multilateral instrument (Action 15)	Korea was one of the 68 countries that signed the OECD multilateral instrument on 7 June 2017.

3.7 Administration

Tax year

A company's tax year is its accounting period as specified in the articles of incorporation, which normally is a 12-month period. The tax year cannot exceed 12 months.

Filing and payment

Korea operates a self-assessment system.

If the tax year is longer than six months, advance tax must be paid for the first six-month period of the tax year, based on either 50% of the previous year's tax liability or the actual financial performance for the six-month period. Filing and payment of advance tax must be made within two months after the first six-month period.

An annual tax return must be filed and any tax due must be paid within three months after the end of a fiscal year (four months for companies filing a consolidated tax return). The tax return filing must include the balance sheet, income statement, statement of appropriation of retained earnings (or statement of disposition of deficit) and other relevant documents. Korean branches of foreign companies are not required to file a statement of retained earnings with their tax returns and may be granted an extension to the usual tax return filing deadline in certain circumstances by submitting an application form within 60 days after the fiscal year-end. A domestic company subject to mandatory external audit may have a one-month extension for filing in certain cases by submitting an application form at least three days before the filing due date. Companies may file their returns electronically.

The period for a taxpayer to file for a tax reassessment for a reduction of the tax base and tax payable and an increase of a tax loss and tax refund is five years, in line with the general statute of limitations period (see below).

Penalties may be imposed for late filing or failure to file a return and for an understatement of taxable income. Interest penalties also may apply.

Consolidated returns

A consolidated tax return system is available for a domestic parent company and its directly or indirectly wholly-owned domestic subsidiaries. Consolidation allows for the pooling of profits and losses, with the net tax liability payable primarily by the parent corporation. Once an election is made for consolidation, the election cannot be changed for five years.

Under the consolidated tax filing regime, a tax loss of a company may be deducted from consolidated taxable income. However, a tax loss incurred before the company joined the group may be deducted only from the taxable income of the company that incurred the loss. Tax incentive amounts should be calculated on a stand-alone basis and then credited against the consolidated tax payable amount. Whether a company qualifies as a SME is determined on a consolidated tax group basis. However, a company that satisfied the SME conditions for tax purposes before the tax consolidation maintains its SME status for four years from the date of the tax consolidation.

Statute of limitations

The general statute of limitations for tax assessment is five years, which may be extended to seven years for failure to file a tax return, 10 years for tax evasion by fraud or an unlawful act or 15 years for unjust acts involving cross-border transactions. In addition, where a taxpayer claims to utilize the extended 10-year tax loss carryforward, the statute of limitations is extended up to one year from the fiscal year in which the taxpayer uses the extended period. The statute of limitations for the collection of tax is five years.

Tax authorities

The MOSF formulates and directs national tax policy, and the NTS focuses on administration and enforcement. The MOSF can issue enforcement regulations by ministerial decree, while the NTS issues rulings and interprets the law, enforcement decrees and enforcement regulations. The Tax Tribunal, established as an independent agency under the prime minister's office, is responsible for examining and ruling on tax appellate cases.

Rulings

The tax authorities may issue a non-binding private tax ruling, in response to a taxpayer's inquiry about the interpretation or application of the tax law. Binding advance rulings also are available. Rulings may no longer be requested on a "no-names" basis, and a ruling may not be requested for issues or matters requiring factual judgment.

3.8 Other taxes on business

For taxable years beginning on or after 1 January 2015 and before 31 December 2017, a corporate accumulated earnings tax is imposed on excess cash accumulated by large corporations (i.e. where equity capital exceeds KRW 50 billion) and by corporations that are members of an enterprise group with restrictions on mutual investment.

The corporation may apply one of two methods in calculating the accumulated earnings tax. The first method calculates a 10% tax on 80% of adjusted taxable income, reduced by amounts spent on investments in tangible and intangible assets, salary, dividends and certain qualified capital redemptions. Once elected, it must be applied for three years. The second method calculates a 10% tax on 30% of adjusted taxable income, reduced by amounts spent on salary, dividends and certain qualified capital redemptions. This method need only be used for one year.

4.0 Withholding taxes

4.1 Dividends

There is no withholding tax on dividends paid to a domestic company.

Dividends paid to a nonresident company or individual are subject to a 20% withholding tax (22%, including the 10% local surtax). The rate may be reduced under a tax treaty, although withholding at the domestic rate, rather than the treaty rate, may be required for certain payments to jurisdictions regarded as tax havens.

4.2 Interest

A flat 20% withholding tax (22%, including the 10% local surtax) applies to interest paid to nonresident corporations, and interest on bonds is subject to a 14% rate (15.4%, including the 10% surtax). The rate may be reduced under a tax treaty, although withholding at the domestic rate, rather than the treaty rate, may be required for certain payments to jurisdictions regarded as tax havens.

4.3 Royalties

Royalties paid to nonresidents are subject to a withholding tax of 20% (22%, including the 10% surtax). The rate may be reduced under a tax treaty, although withholding at the domestic rate, rather than the treaty rate, may be required for certain payments to jurisdictions regarded as tax havens.

4.4 Branch remittance tax

In general, there is no branch remittance tax. However, a branch tax, ranging from 5% to 15% of after-tax profits less deemed reinvested capital, may be levied if a tax treaty between Korea and the country in which the branch's head office is resident allows Korea to impose the branch tax and the counterparty country levies an additional profits tax on a foreign branch of a Korean company (i.e. based on the reciprocity principle).

4.5 Wage tax / social security contributions

For salaried employees, the employer withholds tax on salary income (at rates ranging from 6.6% to 44%) on a monthly basis, and a year-end payroll tax settlement is filed in the following year.

The following social security contributions are payable by both the employer and the employee: national pension, medical insurance and unemployment insurance premiums, which are based on the gross income of an employee. The employer contributes 4.5% of the monthly salary to the national pension fund (with the employee contributing the same percentage). Both the employer and the employee contribute 3.06% and 0.65% of the average monthly wage as a national medical insurance premium and an unemployment insurance premium, respectively. In addition to the 0.65% unemployment insurance, the employer contributes an insurance premium of 0.25% to 0.85% of an employee's average monthly wage, depending on the number of employees. The maximum amounts of the national pension premium and national medical insurance premium are KRW 404,100 and KRW 4,779,720, respectively, including both the employee and the employer's portion.

The long-term care insurance contribution is levied on the national medical insurance premium at a rate of 6.55%.

4.6 Other

Income from services rendered by a nonresident company or individual in Korea generally is classified as personal service income and is subject to a 20% withholding tax (22%, including the 10% local surtax), unless the rate is reduced or an exemption is provided under an applicable tax treaty. Income derived by a nonresident from personal services rendered outside Korea can be treated as Korean-sourced income, if the relevant tax treaty allows Korea to levy tax on such income. In such cases, a 3% withholding tax (3.3%, including the 10% local surtax) would apply. Technical service fees for any transfer of technical information or know-how may be classified as royalties.

5.0 Indirect taxes

5.1 Value added tax

VAT is levied on the supply of goods and services at a rate of 10%, with some exceptions. VAT applies to foreign suppliers that provide electronic services (e.g. games, audio or video files, software, etc. activated through mobile communication devices or computers) to persons (other than tax registered businesses) in Korea using information communication networks.

VAT is not levied on exports, freight services by sea or air and other business activities earning foreign currency income. VAT is not applied to unprocessed foodstuffs; coal; medical and educational services; books and magazines; newspapers; creative works; banking and insurance services; charitable activities and programs; services provided by central and regional governments; public telephones; and goods temporarily imported for re-export.

Businesses may reclaim VAT on inputs, provided the inputs are not connected with VAT-exempt activities.

All domestic businesses supplying taxable goods or services must register with the tax authorities for VAT purposes. Foreign suppliers that provide electronic services via information communication networks should access the National Tax Service (NTS) website and apply for simplified registration of the business with the NTS.

A VAT return generally must be filed and the VAT due paid on a quarterly basis, regardless of whether the taxpayer is a company or an individual. Monthly filing is permitted for early VAT refund if the goods or services provided by the business are zero-rated for VAT purposes. Penalties apply for underpayment or underreporting of VAT liability.

5.2 Capital tax

A capital registration tax of 0.48% (including the local surtax) of the par value of newly-registered capital is levied when a company registers its incorporation or capital increase with the court registry. If a company is incorporated in the Seoul Metropolitan Area and a capital contribution is made within five years after its incorporation, the capital registration tax triples to 1.44%.

5.3 Real estate tax

A company that owns land, buildings, ships or aircraft at a certain assessment date is subject to a property tax on those assets. The tax rates generally range from 0.24% to 0.6% (including the education surtax), depending on the type of property. A company owning real estate, such as land or residential buildings, may be subject to the comprehensive real estate tax (a tax levied on the owner of a residential building and attached land with an aggregated public announced value exceeding KRW 600 million) in addition to the local property tax.

5.4 Transfer tax

A security transaction tax of 0.3% is levied on the sale of listed shares; the rate is increased to 0.5% if the shares are unlisted. The tax is levied on the seller. If the seller is a nonresident or a foreign company, the buyer should withhold and remit the tax to the tax authorities on behalf of the seller within two months after the end of the quarter in which the share transfer transaction takes place.

5.5 Stamp duty

Stamp duty is levied on agreements relating to the creation, transfer or alteration of rights, but the tax is not significant.

5.6 Customs and excise duties

Customs duties are levied on imported goods, generally at a rate of 8%. The dutiable value is the actual price paid to exporters, plus freight and insurance (CIF price). Korea Customs uses the Harmonized System (HS) of tariff nomenclature as a basis for the collection of customs duties. Importers should declare the name of the item, specifications, quantity, applicable HS code, duty rate, duty amount and applicable rules of duty exemption and abatement with the customs house.

The customs value of imported goods is determined in accordance with the Customs Act. The primary method for customs valuation (which is the transaction value method, based on the price actually paid or payable for the goods when sold to Korea for export) is stipulated in the Customs Act, and where this method is not available, the customs valuation should be determined by sequential application of the other valuation methods under the Act.

Various excise taxes target “luxury” and big-ticket items. “Individual consumption” tax rates range from 5% to 20%. Petrol and other petroleum products are heavily taxed, and they represent a substantial part of the total national tax revenue. The individual consumption tax also is levied on petrol and diesel fuel. The government can make temporary adjustments to these individual excise tax rates to boost or discourage consumption of certain products.

5.7 Environmental taxes

A person (or company) that produces or imports gasoline, diesel oil and similar alternative oil is liable to environmental tax. The tax on gasoline and similar alternative oil is KRW 475 per liter, and it is KRW 340 per liter for diesel oil and similar alternative oil.

5.8 Other taxes

Registration tax

Entities registering real estate, ships, aircraft, motor vehicles, trademarks, copyrights, etc. are required to pay a registration tax. Registration subsequent to acquisition is taxed under the acquisition tax discussed below. Depending on the item, the tax is levied at 0.02% to 5% of the value of the property or at flat amounts; local education surtax also is levied at a rate of 20%. Generally, registration tax is based on the value of the asset at the time of acquisition.

Acquisition tax

Entities acquiring real estate, motor vehicles, heavy equipment and certain other items are required to pay acquisition tax. The acquisition tax base is the actual acquisition price of the taxable items, with the tax rate depending on the item and the acquisition method. As a general rule, the tax rate for the acquisition of real estate is 4.6%, including the local surtax (however, a lower acquisition tax rate from 1.1% to 3.5%, including the local surtax, applies to the purchase of housing). The tax rate can be tripled for property located in Seoul and other large cities. The government can impose aggregate real estate taxes on real property holdings to discourage land speculation.

Local inhabitants tax

Local governments levy a local inhabitants tax on companies, with the amount depending on capital and the number of employees.

Education tax

Entities engaged in banking, finance and insurance businesses are required to pay education tax at 0.5% of gross revenue.

6.0 Taxes on individuals

Individuals in Korea are subject to personal income tax, local income surtax, inheritance and gift tax, real estate tax, social security, registration tax, acquisitions tax, local inhabitants tax and VAT.

Korea Quick Tax Facts for Individuals	
Income tax rates	Progressive from 6% to 40%
Local income surtax	10%
Capital gains tax rates	Special regime
Basis	Worldwide income for residents (Korean-source income for nonresidents)
Double taxation relief	Yes
Tax year	Calendar year
Return due date	31 May following the tax year
Withholding tax	
• Dividends	20% (plus surtax)
• Interest	20% (plus surtax)
• Royalties	20% (plus surtax)
Net wealth tax	No
Social security	Varies
Inheritance tax	Progressive rates up to 50%
Real estate tax	0.24% to 0.6% (including surtax)
Registration tax	0.02% to 5% (plus surtax)
Acquisition tax	Varies
Local inhabitants tax	KRW 50,000 for business owners; up to KRW 10,000 otherwise
VAT	10%

6.1 Residence

The tax law defines a resident as an individual who has a domicile in Korea or who has resided in Korea for at least 183 days during the current year or during two consecutive tax years. An individual normally is considered resident upon arrival in Korea if his/her occupation generally would require him/her to reside in Korea for 183 days or more, or if the individual's family accompanies him/her to Korea and the individual has substantial assets (e.g. household property) in Korea.

6.2 Taxable income and rates

Residents are subject to tax on worldwide income. Short-term resident foreigners whose total period in Korea does not exceed five out of the past 10 years are taxed only on foreign-source income paid in or remitted to Korea, in addition to Korean-source income earned.

Other nonresidents are taxed only on certain Korean-source income, as provided for in the Individual Income Tax Law, subject to certain tax holidays for expatriate employees.

Taxable income

Taxable income includes wages and salaries, business income, dividends, interest, rents, retirement income and certain other income.

Capital gains are taxed separately, with the rate depending on the type of asset, holding period, etc. Capital gains tax applies to income from trading financial derivatives.

Deductions and reliefs

Foreign tax credits are available for aggregate global income when the foreign portion of the taxpayer's income already has been taxed. Certain savings plans provide tax benefits under government incentive programs to encourage savings.

Various tax deductions and credits are permitted, including a personal deduction and an earned income deduction and tax credits for qualifying medical expenses, certain educational expenses, certain charitable donations, etc. that can further reduce the personal income tax burden. Resident individual taxpayers are entitled to a number of personal deductions for themselves and their dependents. The basic deduction is KRW 1.5 million (per person) for the taxpayer, his/her spouse and dependents. Additional deductions are available for certain persons (i.e. persons aged over 70, handicapped persons, etc.).

A standard tax credit of KRW 130,000 is available to employees (KRW 70,000 for self-employed individuals).

Rates

The tax rates on personal income are progressive, ranging from 6% to 40%, although rates and brackets vary depending on the source of income. The top individual income tax rate applies to taxable income over KRW 500 million. The local income surtax of 10% of the income tax liability also applies.

Changes have been made to the rules governing the flat income tax rate regime for foreign employees working in Korea. Under the TILL, foreigners are allowed to elect a flat income tax rate as an alternative to the regular, progressive individual income tax rates when calculating individual income tax liability on earned income. If a flat tax rate is elected, it is applied as a withholding tax to all gross income earned in Korea, with no deductions, income exclusions or tax credits allowed. As from 1 January 2017, the flat income tax rate is increased from 18.7% to 20.9% (including a local income tax surcharge of 1.9%) to reduce the taxation disparity between Korean nationals and foreign taxpayers. The application of the flat income tax rate election is limited to a maximum of five years from the start date of Korean employment for foreign employees arriving in Korea for the first time on any day between 1 January 2014 and 31 December 2018. For cases in which a foreign employee began working in Korea before 1 January 2014, the flat income tax rate election will be allowed until the end of 2018, even if five years have elapsed from the date the employee commenced work in Korea. Foreign employees starting work in Korea after 1 January 2019 are not eligible for the flat income tax rate, unless they work for "qualified regional headquarters" of foreign companies.

Dividend and interest income exceeding KRW 20 million received by a resident individual are subject to progressive tax rates. The withholding tax charged on dividend and interest payments from Korean sources amounting to less than KRW 20 million generally is considered final.

Gains on company shares held by employees under employee share-ownership schemes are up to 50% tax-exempt if the shares are held for at least two years, and 75% exempt for shares held for at least four years.

In general, gains from real estate transactions are taxed at progressive rates if the property is sold two years or more after purchase. The rate is 50% if the property is sold within one year from the purchase date, and 40% if it is sold between one and two years from the date of purchase. Gains arising from the transfer of nonregistered real estate are taxed at 70%. The 10% local income surtax also applies.

Capital gains from the transfer of shares of a company listed on the Korea stock exchange are exempt from taxation unless the transferor is a majority shareholder who: (i) holds more than 1% of the total outstanding shares of the company; or (ii) owns shares in the company with a fair market value of more than KRW 2.5 billion. Capital gains from the transfer of shares of an unlisted company are not exempt from taxation, and a shareholder of an unlisted company that meets the ownership (4% of the total outstanding shares) or fair market value (KRW 2.5 billion) thresholds to qualify as a majority shareholder may be subject to an increased tax rate on the gains, as described below.

Majority shareholders must pay a tax of 30% on gains from shares held for less than one year, and 20% on gains from shares held for a longer period. Shareholders who are not majority shareholders are liable for a 20% tax on gains from a transfer of non-SME shares and a 10% tax on gains from a transfer of SME shares, in both cases regardless of the holding period. A 20% tax applies to majority shareholders of SMEs.

6.3 Inheritance and gift tax

Inheritance and gift tax is levied on the beneficiary at rates ranging from 10% (for the tax base of KRW 100 million or less) to 50% (for the tax base in excess of KRW 3 billion). Certain deductions may apply for property passing between spouses and between other family members.

6.4 Net wealth tax

Korea does not levy a net wealth tax.

6.5 Real property tax

An individual owning land, buildings, ships or aircraft at a certain assessment date is subject to a property tax on the assets. The tax rates generally range from 0.24% to 0.6% (including the local education surtax), depending on the type of property. An individual owning real estate, such as land or residential buildings, is subject to the comprehensive real estate tax (a tax levied on the owner of a residential building and attached land with an aggregated publicly announced value exceeding KRW 600 million), in addition to the local property tax.

6.6 Social security contributions

The following social security contributions are payable by both the employee and the employer: national pension, medical insurance and unemployment insurance premiums, which are based on the gross income of an employee.

The employee contributes 4.5% of the monthly salary to the national pension fund (with the employer contributing the same percentage). Both the employee and the employer contribute 3.06% and 0.65% of the average monthly wage as a national medical insurance premium and an unemployment insurance premium, respectively. In addition to the 0.65% unemployment insurance, the employer contributes an insurance premium of 0.25% to 0.85% of an employee's average monthly wage, depending on the number of employees.

The maximum amounts of the national pension premium and national medical insurance premium are KRW 404,100 and KRW 4,779,720, respectively, including both the employee and the employer's portion.

The long-term care insurance contribution is levied on the national medical insurance premium at a rate of 6.55%.

Foreign individuals working in Korea must contribute to the national pension scheme unless there is a social security agreement between Korea and the individual's home country, and the individual remains subject to the home country scheme.

6.7 Other taxes

Registration tax

Individuals registering real estate, ships, aircraft, motor vehicles, trademarks, copyrights, etc. are required to pay a registration tax. Registration subsequent to acquisition is taxed under the acquisition tax discussed below. Depending on the item, the tax is levied at 0.02% to 5% of the value of the property or at flat amounts, as well as a local education surtax at a rate of 20%. Generally, registration tax is based on the value of the asset at the time of acquisition.

Acquisition tax

An individual acquiring real estate, motor vehicles, heavy equipment and certain other items is required to pay acquisition tax. The acquisition tax base is the actual acquisition price of the taxable items, with the tax rate depending on the item and acquisition method. As a general rule, the tax rate for the acquisition of real estate is 4.6%, including the local surtax (however, a lower acquisition tax rate from 1.1% to 3.5%, including the local surtax, applies to the purchase of housing). The tax rate can be tripled for property located in Seoul and other large cities. The government can impose aggregate real estate taxes on real property holdings to discourage land speculation.

Local inhabitants tax

Local governments levy a local inhabitants tax on individuals. The tax is KRW 50,000 for business owners, and KRW 10,000 or below for others.

Exit tax

A new exit tax will be introduced on 1 January 2018, in an effort to prevent offshore tax avoidance by tax residents who will break tax residence through a permanent departure from Korea. The exit tax will be applicable to tax residents permanently leaving Korea who meet both of the following criteria:

- Maintained a permanent residence in Korea for at least five years in the 10 years leading up to the date of departure; and
- Were considered a major shareholder of a domestic company, owning more than 1% of all shares valued at KRW 2.5 billion or more at the end of the preceding business year.

When a tax resident fulfilling these conditions breaks residence, the taxpayer will be deemed to have disposed of relevant domestic shares on the final day of residence, and the deemed gain will be subject to a tax rate of 22% (including local income tax surcharge). For the time being, only sales of shares in domestic companies will be subject to the exit tax.

The exit tax will have to be reported and paid within three months, starting from the last day of the month of expatriation. A 20% non-reporting penalty will be imposed for failure to comply. However, the exit tax assessment will be eligible to be deferred for five years if a tax agent is appointed or collateral is posted.

Tax credits will be available if any foreign taxes are paid on the gain or if a loss is subsequently realized pursuant to the disposition of the shares.

If the taxpayer returns to Korea to establish tax residence within five years of departure, any exit tax paid will be refunded.

6.8 Compliance

The taxable period for individuals is the calendar year.

Each individual must file a return—joint returns are not permitted under Korean tax law.

A resident generally is required to file an individual income tax return and pay the tax due on such income by 31 May of the following year or before his/her permanent departure from Korea. A taxpayer who receives only salary or severance income may not be required to file a return, since employers are required to withhold income tax at source on such income on a monthly basis and finalize the employee’s tax liability in February of the following calendar year.

Penalties may be imposed for late filing or failure to file a return and for an understatement of taxable income. Interest penalties also may apply.

7.0 Labor environment

7.1 Employee rights and remuneration

Application of many Korean labor laws varies depending on the number of workers a company employs, although this distinction is disappearing as legislation is revised to cover all workplaces.

The Labor Standards Act, which generally applies to companies with at least five employees, prescribes the minimum conditions necessary to ensure the welfare of employees. It deals with such matters as labor contracts, working hours, severance pay, health and safety, equal opportunity and compensation for industrial accidents. The Industrial Accident Compensation Insurance Act guarantees fair and prompt compensation for workplace accidents through insurance coverage. It applies to all workplaces. The Employment Insurance Act (applying to all companies) aims to promote employment, develop and improve employee job skills and employability and grant necessary benefits to jobless workers.

Working hours

A 40-hour work week has been adopted by workplaces with at least five employees, and a five-day work week is the norm for businesses in Korea.

7.2 Wages and benefits

More employers have begun to introduce performance-based pay and profit-sharing schemes. Individual contracts for annual salaries linked to performance are becoming increasingly common. Share options also are growing in popularity.

Workers in Korea are compensated with direct cash payments, as well as a variety of subsidized services, allowances and bonuses. Benefits typically include housing, health and life insurance, cars and transport, recreation, children’s education, meals and holidays. As part of labor reform, both local and multinational firms are making progress in consolidating the many itemized benefits into single cash payments added to base pay.

Pensions and social insurance

Employers must contribute to social insurance programs covering medical costs, pension funds, employment insurance and industrial accident compensation, and they must set aside severance pay for their employees on a progressive basis (one month for each year of employment). An employee who has worked for more than one year is automatically entitled to severance pay. The mandatory severance pay requirement applies to all workplaces.

Portable retirement accounts are available as an alternative to traditional lump sum severance pay schemes. Workplaces can switch to either defined contribution or defined benefit plans. Employers fully fund employee retirement accounts, although employee beneficiaries can choose to make additional contributions to their pension accounts during their employment.

National pensions and employment insurance are the two most important social welfare programs. Under the National Pension Act, workers contribute 4.5% of their average monthly wage to the national pension fund and employers contribute another 4.5% on behalf of the employees. Employment insurance is designed to provide employment stabilization, vocational training support and unemployment benefits. It extends benefits to unemployed workers at 50% of prior wages for up to a maximum of eight months. Workers who have been employed for six months or more are eligible. Part-timers and daily laborers working at least six months in the most recent year before the unemployment are allowed to join the program. Unemployment insurance covers workers up to age 64.

7.3 Termination of employment

The Labor Standards Act defines conditions for layoffs as a “managerial crisis” caused by financial difficulties over an extensive period of time; it also includes asset transfers, mergers or acquisitions undertaken to overcome such a crisis. Employers must make efforts to avoid layoffs, such as restricting overtime, reducing working hours, suspending recruitment, suspending renewals of temporary job contracts, offering early retirement to consenting workers and even temporarily halting business operations. Employers must give trade unions or other labor representatives 50 days’ notice before taking these measures. A layoff affecting more than 10% of the total workforce must be reported to the Ministry of Labor at least 30 days in advance. Employers also must make efforts to rehire those laid off within three years.

Employers may not dismiss, lay off, suspend or transfer a worker, reduce wages or take other punitive measures without reasons “justifiable” by criminal or disorderly behavior, or other misconduct on the part of the worker. Employers must give 30 days’ notice or 30 days’ normal wages to regular employees who are to be dismissed. A worker may not be dismissed while undergoing medical treatment, or for 30 days thereafter. Targeting female workers for job terminations is banned under the Equal Employment Act.

7.4 Labor-management relations

Most trade unions in Korea are organized at the enterprise level. Collective bargaining processes between management and the enterprise union determine most working conditions. Collective agreements normally last for one year and deal primarily with wage and benefits issues. Private organizations, including the Federation of Korean Industries and the Korea Employers Federation, are involved in collective bargaining on behalf of employers with organized labor during the wage-negotiation season. Concession bargaining (i.e. making concessions on working conditions in exchange for job guarantees) is becoming widespread. More companies are inserting “no-strike” clauses into labor-management agreements.

The Korea Tripartite Commission serves as a national roundtable of government, management and labor representatives to resolve their differences and work out large agreements.

7.5 Employment of foreigners

There are no limitations on employing foreign nationals to work in Korea if they have the appropriate visas. Foreign professionals are allowed to extend their stay in the country when they meet certain conditions, depending on their visa type, generally on an annual basis. Permanent resident status is available to expatriate employees of foreign investment companies if they have stayed in the country for at least three or five years and meet certain conditions. All foreigners staying in the country for more than 90 days from entry must register with the Immigration Bureau of the Ministry of Justice within the first 90 days.

8.0 Deloitte International Tax Source

The Deloitte International Tax Source (DITS) is a free online database that places up-to-date worldwide tax rates and other crucial tax information within easy reach. DITS is accessible through mobile devices (phones and tablets), as well as through a computer.

Connect to the source and discover:

A database that allows users to view and compare tax information for different jurisdictions that includes:

- Corporate income tax rates;
- Historical corporate rates;
- Domestic withholding tax rates;
- In-force and pending tax treaty withholding rates on dividends, interest and royalties;
- Indirect tax rates (VAT/GST/sales tax); and
- Information on holding company regimes.

Guides and Highlights: Deloitte's Taxation and Investment Guides analyze the investment climate, operating conditions and tax systems of most major trading jurisdictions, while the companion Highlights series concisely summarizes the tax regimes of over 100 jurisdictions.

Jurisdiction-specific pages: These pages link to relevant DITS content for a particular jurisdiction (including domestic rates, tax treaty rates, holding company information, Taxation and Investment Guides and Highlights).

Tax publications: Global tax alerts and newsletters provide regular and timely updates and analysis on significant cross-border tax legislative, regulatory and judicial issues.

Tax resources: Our suite of tax resources includes annotated, ready-to-print versions of holding company and transfer pricing matrices; an R&D incentive matrix; monthly treaty updates; and expanded coverage of VAT/GST/sales tax rates.

Webcasts: Live interactive webcasts and Dbriefs by Deloitte professionals provide valuable insights into important tax developments affecting your business.

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