

Q&A on FDI in Korea



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Q&A

on FDI in Korea



I. Foreign Investment - Definition & Procedure

Definition

Object of Investment

Long-Term Loans

Foreign Investment Procedure

Recovery of Investment Funds and Reinvestment

Businesses Restricted From Foreign Investment

Definition

1 | Contribution to a non-profit corporation

Q ... Are foreigners permitted to contribute to a non-profit corporation?

A ... Yes, provided that certain conditions are met.



Additional information

● **A foreigner may contribute to a non-profit corporation in the following cases:**

- ① Where a foreigner contributes KRW 50 million or more and 10 percent or more of the total contribution amount to a Korean corporation (including one in the process of being established) in the field of science and technology that meets the following conditions on research personnel, facilities, etc.¹⁾:
 - The corporation should have an independent research facility.
 - The corporation should meet either one of the following conditions:
 - * The regular employment of research staff as prescribed by Article 11 of the Labor Standards Act is five persons or more, consisting of persons with a master's degree or higher in the field of science and technology, or persons with a bachelor's degree in the field of science and technology having not less than three years of research experience.
 - * The corporation engages in 'research and experimental development on natural sciences and engineering' under the Korea Standard Industrial Classification as publicly announced by the Commissioner of Statistics Korea in accordance with Article 22 of the Statistics Act.
- ② Contributions to a non-profit corporation by a foreigner that meet the following standards on the contribution amount and line of business, and which the Foreign Investment Committee recognized as foreign investment²⁾:

1) Article 2 (1) 4 (c) of the Foreign Investment Promotion Act, Article 2 (6) of its Enforcement Decree

2) Article 2 (1) 4 (d) of the Foreign Investment Promotion Act, Article 2 (7) of its Enforcement Decree

- The contribution amount is KRW 50 million or more and 10% or more of the total contribution amount is invested.
- The non-profit corporation's purpose of establishment falls under the following:
 - * The non-profit corporation has been established for the purpose of promoting science, art, medical services or education etc. and continues to conduct business to nurture professionals in the relevant fields and to expand international exchanges, or
 - * The non-profit corporation is the regional headquarters of an international organization that carries out international cooperation business between civilians or governments.

2 | Amendment of the Commercial Act and the minimum foreign investment amount

Q ...

With the amendment of the Commercial Act, the clause on regulations on the minimum capital amount of corporations has been deleted. Does this mean that the requirement on the minimum amount of foreign direct investment (FDI) is also removed?

A ...

The minimum FDI amount requirement remains valid. With the amendment of the Commercial Act in May 2009, the minimum capital required to establish a corporation has been changed to as little as KRW 100³⁾. However, the Foreign Investment Promotion Act still stipulates the minimum FDI amount as KRW 100 million.

3) In accordance with Article 329 (3) of the Commercial Act, the face value per share should be at least KRW 100.

3 | Establishment of a foreign-invested company by a foreign investment association (fund)

Q

Can a foreign investment fund or investment association that cannot be recognized as a juristic person be recognized as a foreigner under the Foreign Investment Promotion Act?

A

As long as the investment fund or investment association has the same form and functions as a juristic person⁴⁾, the investment fund or investment association is recognized as a foreigner.



Additional information

A foreign investment association (fund) is recognized as a foreigner if the nationality of a fund that is a juristic person can be certified. Even if a fund that is not a juristic person functions as a remitter of funds, it can be recognized as a foreigner by certifying the nationality of the fund operator.

4 | Investment by a Chinese national permanently residing in Korea

Q

Can a Chinese national permanently residing in Korea be recognized as a foreign investor as prescribed by the Foreign Investment Promotion Act?

A

Yes.

4) Articles 3, 31, 32 and 34 of the Civil Act, Articles 170 and 171 (1) of the Commercial Act



Additional information

If a Chinese national permanently residing in Korea has a foreign nationality such as Chinese nationality or acquires qualification to permanently reside in a foreign country, he or she falls under a 'foreigner' under the Foreign Investment Promotion Act and therefore qualifies as a foreign investor. However, an investment by a Chinese national permanently residing in Korea shall only be recognized as foreign investment as long as: funds are introduced from overseas; the requirements set forth in the Foreign Investment Promotion Act (investment amount, investment ratio, etc.) are met; and investment procedures such as investment notification are carried out.

5 | Investment through a holding company (paper company)

Q

If a foreigner establishes a paper company as a holding company in Korea and invests in a domestic corporation through this holding company, can this be recognized as foreign investment under the Foreign Investment Promotion Act?

A

No.



Additional information

Even if a holding company only plays the role of inducing foreign investment, the holding company is a domestic company established under domestic law, and investment through a domestic company cannot be recognized as foreign investment. Therefore, the company is not eligible for incentives for foreign direct investment.

6 | Foreigners' investment in mutual fund

Q

... If a foreigner contributes to 10 percent or more of a domestic mutual fund's total outstanding shares with voting rights, can this be recognized as foreign investment?

A

... No. The Foreign Investment Promotion Act does not apply to foreign investment in a mutual fund.



Additional information

- In accordance with the Foreign Investment Promotion Act⁵⁾, foreigners may invest in Korea through ownership of the stocks or shares of a domestic corporation or a private enterprise.
- However, investment in mutual funds is not recognized as foreign direct investment due to the high liquidity of the investment funds, and the Foreign Exchange Transactions Act applies to such investments instead of the Foreign Investment Promotion Act.
- A contribution to a domestic investment association is not considered foreign investment under the Foreign Investment Promotion Act because an investment association is neither a corporation nor a private enterprise. However, foreigners' contributions to the Small and Medium Enterprise Establishment Investment Association, the Korea Venture Fund⁶⁾ and the Specialized Component and Materials Investment Association⁷⁾ are recognized as foreign investment in accordance with the exceptional clauses of related laws.

5) Article 2 (1) of the Foreign Investment Promotion Act

6) Article 8 of the Act on Special Measures for the Promotion of Venture Businesses

7) Article 7 of the Act on Special Measures for the Promotion of Specialized Enterprises, Etc. for Components and Materials

7 | Foreign investment in a project financing vehicle

Q ... Are foreigners permitted to invest in a project financing vehicle?

A ... Yes, because there are no special restrictions.



Additional information

- **What is a project financing vehicle?**
 - A project financing vehicle is a paper company established to efficiently pursue real estate development projects. To finance a project, funds and goods are supplied from financial institutes and project partner companies, and management responsibilities are delegated to a professional asset manager.
- **A project financing vehicle shall meet the following requirements:⁸⁾**
 - Its assets shall be used for investment in facilities and infrastructure, the development of resources, or a specific business requiring time and money, and its profits shall be distributed to its stockholders.
 - It shall establish no business office, other than the headquarters, and hire no staff member and full-time executive.
 - It shall exist for a limited period of at least two years.
 - It shall be a stock company as defined in the Commercial Act or any other Act, which is established in the form of incorporation by promoters
 - Its promoters, directors and auditors shall possess responsibility and capability to carry out his/her duties
 - One or more promoters shall satisfy one of the following and make investments in at least 5/100 or more of the capital
 - * A financial company
 - * The National Pension Service established under the National Pension Act (limited to an investment company that implements public-private

8) Article 51-2 (1) 9 of the Corporate Tax Act and Article 86-2 of its Enforcement Decree

partnership projects in the manner referred to in subparagraph 2 of Article 4 of the Act on Public-Private Partnerships in Infrastructure⁹⁾)

- The capital shall be at least KRW 5 billion, provided, that in cases of an investment company that implements public private partnership projects in the manner referred to in subparagraph 2 of Article 4 of the Act on Public-Private Partnerships in Infrastructure, it shall be at least KRW 1 billion.
- Management, operation, and disposition of assets shall be entrusted to an asset management company
- Fund management affairs shall be entrusted to a financial company, etc. that operates trust business under the Financial Investment Services and Capital Markets Act
- A nominal company incorporation report stating the following matters, accompanied by the required documents, shall be submitted to the head of the tax office having jurisdiction over the place of tax payment within two months of the registration date of the incorporation of corporation.
 - * Proper purpose business prescribed in the articles of incorporation
 - * Names and resident numbers of directors and auditors
 - * The name of an asset management company
 - * The name of a trustee company of fund management
- An asset management company and a trustee company of fund management shall not be the same entity.

● Tax Support

- Reduction of corporate tax: A project financing vehicle that distributes at least 90 percent of distributable profits shall receive deduction of the amount equivalent to such distribution from the amount of income for the relevant business year.¹⁰⁾

| Note |

The clauses on reduction of acquisition tax and exclusion of registration and license tax from heavy taxation are sunset clauses that were effective until Dec. 31, 2014.

9) Article 4 Subparagraph 2 of the Act on Public-Private Partnerships in Infrastructure: The mode by which the ownership of the infrastructure shall be transferred to the State or a local government upon the completion of construction, and the concessionaire shall have the rights to manage and operate the infrastructure for a specified period, but the State or local government, etc. shall rent them for a specified period as provided for in the agreement, and use them and make profits.

10) Article 51-2 (1) of the Corporate Tax Act

8 | Foreigners' ownership of depository receipt

Q ... Can a foreigner's ownership of depository receipt circulated overseas be recognized as foreign investment?

A ... No.



Additional information

- The Foreign Investment Promotion Act stipulates that foreign investment should be notified when depository receipts are converted to stocks, provided that certain conditions (investment amount, investment ratio, etc.) are met¹¹⁾.
- It is also interpreted that depository receipts are not included when calculating the number of stocks in accordance with stock trading related laws.

9 | Recognition as foreign investment when the foreign investment ratio falls short

Q ... If a foreigner acquires less than 10 percent of a company's preferred shares without voting rights and awards a contract for dispatching executive officers, can the share acquisition be recognized as foreign investment?

A ... Yes.



Additional information

11) Article 7 (1) 5 of the Foreign Investment Promotion Act

- With the amendment of the Enforcement Decree of the Foreign Investment Promotion Act in January 2004, the requirement “owning less than 10 percent of the total number of voting stocks or total equity investment of a Korean corporation or a company run by a Korean national” was deleted¹²⁾. In this regard, if a foreigner owns stocks or shares - both preferred shares and common shares - of a Korean company and awards a contract for dispatching executive officers, the foreigner is deemed to have a purpose of establishing a continuous economic relationship with the said Korean company and the share ownership shall be recognized as foreign investment.
- However, if executive officers are not elected at a general meeting of shareholders until the date set forth in the contract to dispatch or elect executive officers, the company shall retroactively lose its status as a foreign-invested company.

10 | Acquisition of preferred stocks and calculation of foreign investment ratio

Q

Are preferred stocks included when calculating the foreign investment ratio?

A

Yes. However, the 10% ownership requirement for notifying FDI does not include preferred stocks without voting rights.



Additional information

- According to Article 5 (3) of the Foreign Investment Promotion Act, foreign investment ratio refers to the ratio of the stocks held by foreign investors to the total stocks, etc. of a foreign-invested company. In other words, when computing the foreign investment ratio, all stocks are included, regardless of whether they are common stocks or preferred stocks.

12) Article 2 (2) 2 of the Enforcement Decree of the Foreign Investment Promotion Act

- When only preferred stocks without voting rights are acquired, the investment cannot be notified as foreign investment because such acquisition fails to satisfy the qualifications for foreign investment under the Foreign Investment Promotion Act, even if the foreign investment ratio exceeds 10 percent and the investment amount is KRW 100 million or more.
- However, if a registered foreign-invested company additionally acquires preferred stocks without voting rights, it is considered additional investment and therefore subject to foreign investment notification, resulting in an increase in the foreign investment amount and ratio.

11 | A non-resident foreign company's establishment of a domestic branch

Q

Does the Foreign Investment Promotion Act apply to the establishment of a local branch by a non-resident foreign company?

A

If a foreign company establishes a domestic branch, the Foreign Exchange Transactions Act (Foreign Exchange Transaction Regulations) shall apply instead of the Foreign Investment Promotion Act.



Additional information

- **Types of domestic branches established by a foreign company¹³⁾**
 - A “branch” that carries out sales activities that generate profit in Korea.
 - An “office” that does not carry out sales activities that generate profit in Korea, but instead undertakes a non-sales function involving business contacts, market research, R&D, etc.

13) Article 9-32 of the Foreign Exchange Transaction Regulations

- **Notification of branch establishment**¹⁴⁾

- In order for a foreign company to establish a domestic branch, the head of a designated foreign exchange bank should be notified of such establishment.
- However, if a foreign company seeks to establish a domestic branch to pursue the following businesses, the Minister of Finance and Strategy should be notified of such establishment.
 - * Financial businesses other than banking business, including fund loans, brokering and arranging overseas finance, cards, installment financing, etc.
 - * Businesses related to securities and insurances
 - * Businesses not permitted under the Foreign Investment Promotion Act or other laws

- **Notification (including notification of change)**¹⁵⁾

- Notification form: Notification of establishment of a domestic branch of a foreign company (Form no. 9-8 of the Foreign Exchange Transaction Regulations)
- Documents to be attached
 - * Documents certifying the name, location and major businesses of the foreign company that is the headquarters
 - * Where an authorization for establishment is required by other laws, a copy of documents certifying such authorization
 - * A statement of the content and scope of businesses that the company intends to engage in in Korea

- **Introduction of operating funds, etc**¹⁶⁾

- Where a domestic branch seeks to introduce operating funds from the overseas parent company, the funds should be introduced through a designated foreign exchange bank.

- **Overseas remittance of net profit**

- If a branch that notified its establishment intends to remit net profit overseas, it should be done through a designated foreign exchange bank.
- Application form for remittance: Form no. 9-10 for application for remittance of the net profit of a foreign company's Korean branch

14) Article 9-33 of the Foreign Exchange Transaction Regulations

15) Article 9-34 of the Foreign Exchange Transaction Regulations

16) Article 9-35 of the Foreign Exchange Transaction Regulation

- Documents to be attached
 - * Balance sheet and income statement of the branch
 - * Certificate of payment of tax
 - * An audit certificate by a certified accountant (only if the ratio of the net profit to the amount of introduced operating funds is 100/100 or higher or if the amount of net profit exceeds KRW 100 million during the relevant accounting period)

12 | Recognition of exercise of preemptive rights as foreign investment

Q ...

If a foreign company acquires bonds with warrants issued by a domestic company with foreign currency and then purchases the company's stocks by exercising its preemptive rights, can this be considered foreign investment?

A ...

Yes, provided that the stock acquisition meets certain conditions prescribed by the Foreign Investment Promotion Act (i.e., investment amount of 100 KRW million or more and investment ratio of 10 percent or more). Foreign investors should notify the acquisition of stocks or shares within 60 days of the date of acquisition.



Additional information

- Bonds with warrants are bonds that come with the right to buy a certain number of fixed-price shares when the bond-issuing company issues new shares. (There are two types of bonds with warrants – bonds with detachable warrants and bonds with non-detachable warrants.) When a foreigner practices his/her preemptive rights, and the investment amount is KRW 100 million or more and the number of shares acquired represents 10% or more of the company's stocks with voting rights, the foreigner should notify foreign investment as prescribed by the Foreign Investment Promotion Act.

| Note | About the subscription right certificate

- While a warrant is a subscription right attached to a bond, a subscription right certificate is the securitization of preemptive rights of existing shareholders when the company conducts capital increase with consideration, and even if existing shareholders forfeit the stocks, the subscription right certificate can be sold and the purchaser can take part in capital increase. A subscription right certificate is different from the subscription right attached to a bond in that it only exists temporarily during the capital increase subscription period.
- When a foreigner acquires a subscription right certificate and takes part in the capital increase, if the investment meets the requirements set forth in the Foreign Investment Promotion Act, notification of acquisition of shares, etc. should be filed within 60 days of the acquisition of new shares, as prescribed by the Foreign Investment Promotion Act.

Object of Investment

13 | Investment of profit from portfolio investment

Q

If a foreigner disposes the listed or unlisted stocks he/she acquired for portfolio investment purpose and then notifies foreign investment with the funds from disposal of stocks in accordance with the Foreign Investment Promotion Act, are the funds recognized as an object of investment?

A

The funds are recognized as an object of investment within the scope defined by the Foreign Investment Promotion Act¹⁷⁾



Additional information

- In principle, if a foreigner incurred profit in Korea, such profit is not recognized as an object of investment unless explicitly recognized by the Foreign Investment Promotion Act (proceeds from stocks, etc. acquired in accordance with the Foreign Investment Promotion Act – i.e., dividends)
- If profit from portfolio investment is exchanged into foreign currency, deposited in an external account and notified as foreign investment, the profit becomes a means of international payment and is therefore recognized as an object of investment. (However, a revision of Article 7-37 (5) [Account for investment purpose, etc.] of the Foreign Exchange Transactions Regulations is needed so that it is specified that a foreign portfolio investor's won-currency funds in an account for investment purposes can be withdrawn as funds for acquisition of domestic stocks.)

17) Article 2 (1) 8 (a) of the Foreign Investment Promotion Act

14 | Investment of funds sourced from a Korean bank located overseas

Q

If a U.S. company takes out a loan from a Korean bank operating in the U.S. or issues bonds through the bank to make a foreign investment in Korea by acquisition of newly issued stocks, etc., are the investment funds recognized as an object of investment?

A

Yes.



Additional information

In this case, the investment funds are considered a means of international payment in accordance with the Foreign Exchange Transaction Act, and are therefore recognized as an object of investment.¹⁸⁾

15 | Investment with a promissory note or letter of credit

Q

If a foreigner acquires the stocks of a domestic company and pays with means of international payment such as a promissory note or letter of credit, can the foreigner notify foreign investment and apply for foreign-invested company registration?

A

No.

18) On-line civil petition to the Ministry of Commerce, Industry and Energy; petition no. 23562; reply date: Aug 21, 2002



Additional information

Promissory notes, letters of credit, checks, etc. are means of international payment as prescribed by the Foreign Exchange Transactions Act, but because they cannot be cashed immediately for investment or payment, they are not recognized as objects of investment under the Foreign Investment Promotion Act, and only foreign currencies that can be cashed immediately (or telegraphic transfer) are recognized as such.

16 | Investment-in-kind with used capital goods

Q

A foreign company plans to disassemble its factory facilities and then send them to Korea in order to operate an auto parts manufacturing business. In this case, is it possible to make an investment-in-kind with the used factory facilities?

A

Yes. There are no special restrictions on used capital goods.

17 | Scope of capital goods

Q

A foreign-invested company incurred expenses on technical knowhow (e.g., outsourced design expense, pilot test expense) and engineering (e.g., technical training expense, expense for technicians) required for the initial test of a facility that is recognized as capital goods. In this case, are such expenses considered capital goods as well?

A

Yes



Additional information

- Article 2 (1) 9 of the Foreign Investment Promotion Act states that the term “capital goods” means machinery, apparatus, facilities, equipment, parts, accessories as industrial facilities (including vessels, motor vehicles, aircraft, etc.), livestock, breeds or seeds, trees, fish and shellfish which are necessary for the development of agriculture, forestry, and fisheries, raw materials and reserve supply deemed necessary by the competent Minister (referring to the head of the central administrative agency in control of the project concerned) for the initial test (including pilot projects) of the facilities concerned, and the fees for transportation and insurance required for the introduction thereof and other know-how or service necessary therefor.
- In the above definition, “know-how or service necessary therefor” means the expense for the know-how or service required for the initial introduction of industrial facilities. In this regard, the expense for know-how on the installation and initial testing of facilities and service expenses including those for engineering are included in the scope of capital goods.

18 | Investment-in-kind with patents

Q ...

Can a foreigner's transfer of his/her patents to a Korean company be recognized as foreign investment?

A ...

Patents fall under industrial property rights and are thus considered a means of investment. In other words, intangible assets such as patents can become a means of investment if they are evaluated by an authorized technology evaluation agency. To notify foreign investment, evaluation of the patents should be completed.



Additional information

- **Scope of technologies, etc. falling under a means of investment¹⁹⁾**
 - Industrial property rights²⁰⁾ : Patent rights, utility model rights, design rights and trademark rights registered in accordance with the Patent Act, the Utility Model Act, the Design Protection Act or the Trademark Act
 - Copyrights as defined by the Copyright Act that are used for industrial activities
 - Semiconductor layout rights²¹⁾
 - Rights pertaining to the use of such rights or technologies
- **Carrying out of investment-in-kind²²⁾**
 - Inspection by an inspector²³⁾ : The inspector should report the inspection results to the court.
- **However, an inspector's inspection may be omitted in the following cases:**
 - 1) Where the total sum of related assets does not exceed 1/5 of the capital and KRW 50 million.
 - 2) Where the related assets are securities that are priced at a stock exchange, and the price of stocks stated on the company's articles of incorporation does not exceed the lesser of ① and ②:
 - ① The average of: the average closing price for one month retroactively from the effective date of the articles of incorporation; the average closing price for one week retroactively from the aforementioned date; and the closing price on the exchange one trading day before the said date
 - ② The closing price on the exchange one trading day before the effective date of the articles of incorporation
 - Certified appraiser²⁴⁾ : When carrying out investment-in-kind, an evaluation by a certified appraiser may substitute the investigation of an inspector. In this case, the notary public or appraiser should report the inspection or appraisal result to the court.

19) Article 2 (1) 8 (d) of the Foreign Investment Promotion Act

20) Article 2 Subparagraph 4 of the Invention Promotion Act

21) Article 2 Subparagraph 5 of the Act on the Layout-Designs of Semiconductor Integrated Circuits

22) Commercial registration no. 200607-2

23) Article 299 of the Commercial Act

24) Article 299-2 of the Commercial Act

- A certified appraiser means an appraiser who is qualified to appraise each type of asset in accordance with the law. Certified appraisers (appraisal of land, etc.) and certified accountants (appraisal by accounting) are examples.
- Copyright, industrial property right, fishing right, mining right and other rights equivalent to real right are subject to the appraisal of a certified appraiser.²⁵⁾
- Special cases²⁶⁾: Where a venture company made an investment-in-kind and where a foreign investor invests industrial property rights, an evaluation by a technology evaluation agency* shall be deemed appraised by a certified appraiser.
 - * Technology evaluation agency²⁷⁾: Korea Institute for Advancement of Technology; Korea Technology Finance Corporation; Korea Evaluation Institute of Industrial Technology, Korea Environment Corporation (evaluation of environment related technology); Korea Agency for Technology and Standards; Korea Institute of Science and Technology; Korea Institute of Science and Technology Information; and National IT Industry Promotion Agency

● Notification of foreign investment

- To notify foreign investment, technology evaluation should be completed and a copy of documents certifying the evaluated price should be attached.²⁸⁾
- When the evaluated amount is higher than expected and the foreign investment ratio needs to be adjusted, shares can be issued at a premium.

25) Article 2 Subparagraph 1 of the Enforcement Decree on the Act on Appraisals and Certified Appraisers

26) Article 30 Subparagraph 4 of the Foreign Investment Promotion Act

27) Article 4 of the Enforcement Decree of the Act on Special Measures for the Promotion of Venture Businesses

28) Article 2 (1) of the Enforcement Rule of the Foreign Investment Promotion Act, attached table no. 1

19 | Recognition of computer program work as foreign investment

Q ... Can a computer program work be recognized as an object of investment under the Foreign Investment Promotion Act?

A ... A computer program work can be recognized as an object of investment, provided that it is used for industrial activities.



Additional information

- A copyright can be recognized as an object of investment under the Foreign Investment Promotion Act only if it is used for industrial activities. Although there are no regulations²⁹⁾ or guidelines on this matter, technology evaluation and assessment institutes³⁰⁾ designated by Presidential Decree will make a decision on each case.
- However, computer program works are generally recognized as 'copyright used for industrial activities' as long as they do not fall under the cases restricted from foreign investment³¹⁾.

29) Korea's intellectual property rights laws are as follows: Patent Act; Utility Model Act; Design Protection Act; Trademark Act; Copyright Act; Act on the Layout-Designs of Semiconductor Integrated Circuits; Seed Industry Act; and Unfair Competition Prevention and Trade Secret Protection Act

30) Technology evaluation institutes stipulated by Presidential Decree: Korea Institute for Advancement of Technology, Korea Technology Finance Corporation, Korea Evaluation Institute of Industrial Technology, Korea Environment Corporation, Korean Agency for Technology and Standards, Korea Institute of Science and Technology, Korea Institute of Science and Technology Information, National IT Industry Promotion Agency

31) Article 4 (2) of the Foreign Investment Promotion Act

20 | Investment-in-kind with domestic real estate

Q ...

If a foreigner acquires the existing stocks of a Korean company by means of investing the land he/she owns in Korea, is this recognized as foreign direct investment under the Foreign Investment Promotion Act?

A ...

Yes, because foreigner-owned real estate in Korea falls under “object of investment” as prescribed by the Foreign Investment Promotion Act.



Additional information

- Under the Foreign Investment Promotion Act, the following items fall under “object of investment”:³²⁾
 - Foreign means of payment as prescribed by the Foreign Exchange Transactions Act or domestic means of payment by the exchange of the said foreign means of payment
 - Capital goods
 - Proceeds from stock acquisition in accordance with this Act
 - Industrial property rights, intellectual property rights as prescribed by Presidential Decree, other technologies thereto, and rights pertaining to the use of such rights or technologies
 - Where a foreigner closes his/her own branch company or office in Korea and then converts the branch company or office into another domestic corporation, or where a domestic corporation the stocks of which are possessed by a foreigner is dissolved, the residual property allotted to the said foreigner upon the liquidation of the said branch company, office, or corporation
 - The amount of redemption of long-term loans or of other loans from foreign countries
 - Stocks prescribed by Presidential Decree
 - Real estate located in Korea (Capital transactions should be reported as prescribed by the Foreign Exchange Transactions Act.)
 - Other means of domestic payment as prescribed by Presidential Decree

³²⁾ Article 2 (1) 8 of the Foreign Investment Promotion Act

21 | Investment-in-kind with loan bonds

Q ... Can investment-in-kind with loan bonds be notified as acquisition of new shares?

A ... Yes. Investment-in-kind in the form of set-off was only permitted when the court approved, but court approval no longer became necessary with the amendment of the Commercial Act in April 2012.



Additional information

- The amount of redemption of loans or of other loans from foreign countries³³⁾ does not only include cash. Thus, when the court recognizes a foreign-invested company's need to improve its financial structure and approves investment-in-kind with loan bonds, the procedure for payment for shares can be skipped and the acquisition of new shares can be notified before registering capital. To notify acquisition of new shares, a document proving that the acquisition of new shares is the redemption of overseas loans should be attached³⁴⁾.
- As investment-in-kind in the form of set-off is now permitted with the amendment of the Commercial Act in April 2012, investment-in-kind with loan bonds can be notified as foreign investment in the form of acquisition of new shares, provided that the investor and foreign-invested company make an agreement (i.e., sign a contract) on converting overseas loans to equity and the foreign-invested company expresses consent.

33) Article 2 (1) 8 (f) of the Foreign Investment Promotion Act

34) Article 5 of the Foreign Investment Promotion Act and the Ministry of Commerce, Industry and Energy's administrative interpretation no. 1687, Oct. 22, 2007

22 | Conversion of borrowings to capital

Q ... What is the procedure for converting foreign debt to capital?

A ... Foreign debt can be converted to capital after payment of the price of shares, or by carrying out a debt-equity swap through investment-in-kind after obtaining court approval.



Additional information

- When KRW currency funds are used to convert foreign debt to shares, the USD exchange rate as of the date of notification shall apply when notifying foreign investment in the form of acquisition of new shares. When loan bonds are converted to capital through set-off, court approval is no longer required. In this case, when foreign investment is notified, the amount of foreign investment shall be the amount of borrowed funds in foreign currency.
- Required documents: Notification form of foreign currency borrowing, debt-equity swap contract, certified public accountant's report, etc.

23 | Debt-equity swap by set-off

Q ... Can long-term loans be converted to equity by set-off?

A ... Yes.



Additional information

- Before the amendment of Article 334 of the Commercial Act, the person to subscribe to new shares was banned from setting off his/her liability for payment with his/her creditor's right against the stock company. However, the provision was deleted in the amended Commercial Act (enforced on April 15,

2012) and Article 421 (2) of the Act permits the set-off provided that the person to subscribe to new shares obtains the consent of the stock company.

- However, if the conversion of long-term loans to equity results in prepayment of loans, the procedure for prepayment of loans should be completed by reporting change in notification of foreign investment in the form of long-term loans.

24 | Stocks to be issued by a foreign listed company

Q

To acquire the existing stocks of a domestic company, the stocks were traded with a listed foreign (Hong Kong) company's stocks pre-issued as new stocks. In this case can the pre-issued stocks be recognized as an object of investment?

A

Yes, if it is confirmed that the stocks are pre-issued.



Additional information

- In principle, the stocks of a listed foreign company as prescribed by the Foreign Investment Promotion Act are recognized as an object of investment. However, the new stocks of a foreign company that are not yet listed cannot be recognized as an object of investment because they are not issued yet.
- However, if the new stocks to be listed are issued before it is paid for, this is a special case in which stocks are issued before the payment for the new stocks is completed, but because the stocks are considered the stocks of a listed foreign company as prescribed by the Foreign Investment Promotion Act, they can be recognized as an object of investment.
- Foreign investment notification by acquisition of a domestic company's stocks (existing stocks) can be made attaching documents certifying that the new shares have been already issued, and a domestic shareholder who disposed of the domestic stocks can certify that he/she received the listed stocks of the foreign company to register as a foreign-invested company.

Long-Term Loans

25 | Calculation of long-term loan period

Q ...

If a foreign-invested company takes out a loan worth KRW 10 billion from a foreign investor and repays the loan in installments under the following plan, is this recognized as foreign investment (foreign investment in the form of long-term loans)?

- Loan Repayment Plan -

- KRW 3 billion: Repayment in the fourth year of taking out the loan
- KRW 4 billion: Repayment in the fifth year of taking out the loan
- KRW 3 billion: Repayment in the sixth year of taking out the loan

A ...

The total loan period comes to five years, and thus the loan is recognized as foreign investment in the form of long-term loan.

- Calculation method: (4 years X 30/100) + (5 years X 40/100) + (6 years X 30/100) = 1.2 years + 2.0 years + 1.8 years = 5 years

26 | Where corporate bonds are acquired by a private placement bond

Q ...

An overseas parent company acquired the corporate bonds issued by a foreign-invested company with repayment period of five years or longer. Does this constitute foreign investment?

A ...

There is a need to recognize such case as foreign investment, although there may be different interpretations.



Additional information

- The private placement method³⁵⁾ is a method of raising funds whereby the issuer makes the offer of sales to individuals or institutional investors such as banks. Therefore, it can be seen as a loan in which the lender and borrower can be specified.
- Therefore, where an overseas parent company or a company with capital investment relations with the overseas parent company acquires corporate bonds issued by a foreign-invested company with a repayment period of five years or longer through the private placement method, it is considered that such transactions need to be recognized as foreign investment.
- However, in this case, the bonds should be in the form of a registered corporate bond, and sale of the bonds should be banned for at least five years.

27 | Prepayment of long-term loans with a maturity of five years or longer

Q

If a long-term loan with a maturity of five years or longer is partly prepaid, is the loan still recognized as foreign investment?

A

Yes.



Additional information

- In the case that a loan no longer qualifies as foreign investment because part of the loan was prepaid before five years, the remaining loan shall remain qualified as a foreign investment, and convenience in outward remittance will be guaranteed when the loan is repaid.
- In this case, the change in foreign investment details must be notified.

35) Compared to public offering, time and expense can be saved through the private placement method. Also, corporate disclosure can be avoided and the bonds can be acquired in large amounts at a better condition.

- However, if the foreign investor no longer qualifies for tax reduction or exemption due to the prepayment, the reduced tax amount and interest thereof for the retroactive period should be paid when filing a tax base return for the taxable year to which the cause for prepayment occurred belongs.

28 | Recognition of loan contract extended to five years or longer as foreign investment

Q

If a loan contract, which was initially not recognized as foreign investment as the period for loan was less than five years, is altered and the period for loan is extended to five years or longer, can the loan be recognized as foreign investment?

A

Recognition as foreign investment is decided on a case-by-case basis.



Additional information

- **In the case that foreign currency funds are already introduced to Korea**
The alteration of the contract is not enough for the loan to be recognized as foreign investment. In order for the loan under the new contract to be recognized as foreign investment, the loan should be repaid and a new loan contract with a maturity of not less than five years should be concluded³⁶⁾.
- **In the case that foreign currency funds are not introduced to Korea yet**
The loan shall be recognized as foreign investment if funds are introduced after investment notification³⁷⁾.

36) Interpretations of foreign investment promotion regulations (Ministry of Commerce, Industry and Energy, Dec. 2007)

37) Article 2 (1) 4 (b) and Article 5 (1) of the Foreign Investment Promotion Act

29 | Introduction of a long-term loan with maturity of five years or longer from a joint-invested overseas company

Q

Foreign company A and domestic company B made a joint investment of 50% each to establish foreign-invested company C in Korea and company D overseas. In this case, if company C introduced long-term loans of five years or longer from company D, does the long-term loan need to be notified as foreign investment?

A

Yes.



Additional information

In this case, foreign company A is deemed a foreign investor of C³⁸⁾, and overseas company D is deemed to have capital investment relations with foreign investor A³⁹⁾. Therefore, company D is considered a qualified provider of long-term loans to foreign-invested company C, and the long-term loan is subject to foreign investment notification⁴⁰⁾.

30 | Transfer of loan receivables to a third person

Q

If a long-term loan is offered as prescribed by the Foreign Investment Promotion Act and the loan receivables are transferred to a third person as part of corporate restructuring efforts, does the third person maintain qualification as a long-term loan provider?

A

Yes, provided that the person satisfies the requirements prescribed by the Foreign Investment Promotion Act.

38) Article 2 (2) of the Enforcement Decree of the Foreign Investment Promotion Act

39) Article 2 (4) of the Enforcement Decree of the Foreign Investment Promotion Act

40) Ministry of Commerce, Industry and Energy's administrative interpretation no. 55121-310, Dec. 12, 2001



Additional information

The third person maintains qualifications as a long-term loan provider as long as he/she is recognized as a foreign investor under related regulations,⁴¹⁾ or satisfies capital investment relations with a foreign investor.⁴²⁾

31 | Long-term loans with maturity of five years or longer funded by domestic borrowing

Q



If overseas parent company A borrows funds from a domestic bank pledging company-owned real-estate as collateral and then provides the funds as a long-term loan of five years or longer to foreign-invested company B, can this be recognized as foreign investment?

A



No



Additional information

In principle, foreign investment requires the introduction of foreign capital from overseas unless otherwise prescribed by the Foreign Investment Promotion Act⁴³⁾. Therefore, a long-term loan of five years or longer funded by domestic borrowing is not recognized as foreign direct investment⁴⁴⁾.

41) Article 2 (4) of the Enforcement Decree of the Foreign Investment Promotion Act

42) Ministry of Commerce, Industry and Energy's administrative interpretation no. 55121-245, Oct. 10, 2001

43) Article 2 (4) of the Enforcement Decree of the Foreign Investment Promotion Act

44) On-line civil petition no. 30813, Apr. 3, 2003

Foreign Investment Procedure

32 | Remittance of investment funds

Q

How can a foreign investor remit investment funds to Korea when he/she does not have a bank account in Korea?

A

Generally, the procedure for opening a bank account is complicated for foreign companies. In this regard, banks open accounts exclusively for foreign investment to make it more convenient for foreign investors to remit investment funds to Korea.



Additional information

The following is a list of virtual bank accounts for foreign investors.

Bank	SWIFT Code	Account no.	Address
Gwangju Bank	KWABKRSE	932305200000	15th floor, 7-12, Daein-dong, Dong-gu, Gwangju
Kookmin Bank	CZNBKRSE	0015-68-900-9999	#9-1 Namdaemunro 2-ga, Jung-gu, Seoul
Nonghyup	NACFKRSE	0009-00-999999	75, Chungjeong-ro 1 ga, Chung-gu, Seoul
Daegu Bank	BAEBKR22	N/A	118,2-ga, Suseong-dong, Suseong-gu, Daegu
Busan Bank	PUSBKR2P	Seoul: 070-99-999999-9	830-38 Beomil-dong, Dong-gu, Busan
Suhyup Bank	NFFCKRSEXXX	N/A	Ogeumro 62 (Shincheon-dong 11-6), Songpa-gu, Seoul
Shinhan Bank	SHBKKRSE	1418-999-999999	231 yangjae-dong, Seocho-gu, Seoul
Woori Bank	HVBKKRSE	8202-2002-3980	203 Hoehyeon 1-ga, Chung-gu, Seoul
Jeonbuk Bank	JEONKRSE	102-FDI-96330000	17/F, Seorin B/D, 88 Seorin-dong, Chongro-gu, Seoul
Jeju Bank	JBKKR22	N/A	1349 E-do 1 Dong, Jeju-si, Jeju-do

Bank	SWIFT Code	Account no.	Address
KEB Hana Bank	HNBKRSXXXX	195-910001-01805	2F, Seoul Center B/D, 91-1 Sogong-dong, Chung-gu
SC Cheil Bank	SCBLKRSE	038-85-000000	100 Kongpyung-dong, Chongro-gu, Seoul

33 | Long-term loans with maturity of five years or longer funded by domestic borrowing

Q

If a foreigner who has notified foreign investment receives remittance or carries in funds from overseas under the name of a third-party person, can this be recognized as foreign investment funds?

A

Yes, provided that it can be proven that the funds belong to the investor who notified foreign investment.



Additional information

- In principle, a foreigner should remit or carry in investment funds from overseas under the name of the investor who has notified foreign investment. However, if funds are remitted or carried in under a different name, a document proving that the remitted or carried-in funds belong to the person who has notified foreign investment should be submitted⁴⁵⁾.
- When funds are remitted to a bank, it should be stated that the funds are remitted on behalf of the person who notified foreign investment (foreign investor). When funds are hand-carried, a notarized document certifying that the funds belong to the person who notified foreign investment is required.

45) Conditional clause in Article 17 (1) 1 of the Enforcement Rule of the Foreign Investment Promotion Act

34 | Cost of establishing a stock company

Q ... What is the initial cost of establishing a stock company?

A ... The costs of establishing a stock company include registration and license tax, local education tax, registration application fee, notarial fee, and legal service fee.



Additional information

Taxes & fees for establishing a stock company

Taxes & Fees	Detail
Registration and license tax	0.4% of the capital; 3x when a stock company is established in a metropolitan city
Local education tax	20% of registration tax
Supreme Court Revenue Stamp	Fee for registration application
Notarial fee	Articles of incorporation, etc.
Legal service fee	Fee charged by law firm

35 | Registration of a foreign-invested company

Q ... What are the disadvantages for not registering a foreign-invested company?

A ... If a foreign-invested company is not registered, it is restricted from notification of stock transfer, and overseas remittance of dividends or proceeds from the sale of stocks. In this regard, a foreign-invested company must be registered.



Additional information

- A foreign-invested company shall be registered within 60 days of the date of occurrence of any of the following events:
 - Where payment for an object of investment to acquire newly issued stocks is completed
 - Where payment for existing stocks is completed
 - Where stocks are acquired through merger, etc.
 - Where a contribution to a non-profit corporation is made⁴⁶⁾

36 | Partial registration of a foreign-invested company

Q ...

If a foreign investor who has notified investment of USD 20 million completed registration of incorporation after arrival of funds worth KRW 100 million, can the company be registered as a foreign-invested company? The foreign investor needs a certificate of foreign-invested company registration to sign a tenant agreement in a complex-type foreign investment zone.

A ...

The company may register as a foreign-invested company. Even before the entire notified amount arrives in Korea, a foreign-invested company registration certificate can be issued under the partial registration system for foreign-invested companies, provided that the minimum investment amount (investment of KRW 100 million or higher) is met.



Additional information

Registration of a foreign-invested company

- It is stated by law that a foreign investor or foreign-invested company which completed payment for an object of investment should register as a foreign-invested company.

46) Article 21 (1) of the Enforcement Decree of the Foreign Investment Promotion Act

47) Article 21 (2) of the Foreign Investment Promotion Act

- Partial registration: Any foreign investor or foreign-invested company may register as a foreign-invested company even prior to the completion of payment for an object of investment or the settlement of the price for the acquisition of existing stocks, in case where he/she/it has made a foreign investment (Article 2 (1) 4 (a) of the Foreign Investment Promotion Act) meeting the minimum investment requirements⁴⁷⁾.

37 | Administrative procedure for merging a domestic company with a foreign-invested company

Q

If domestic company A merges with foreign-invested company B, with A being the surviving entity and B being extinguished, what is the administrative procedure required under the Foreign Investment Promotion Act?

A

Foreign investor B should notify the acquisition of stocks, etc. within 60 days of the day on which B acquired the stocks, etc. of A⁴⁸⁾.



Additional information

- After the merger is completed, foreign investor B should notify the acquisition of company A's stocks. The required documents include those certifying the acquisition of the stocks or shares (e.g. merger contract) and a certified copy of corporate registration of company A after the merger.
- Afterwards, company A should apply for registration of foreign-invested company by attaching documents such as the certified copy of corporate registration and shareholder ledger of the merged company⁴⁹⁾. Also, foreign investor B can request the cancellation of foreign-invested company registration by submitting the necessary documents including the corporate dissolution registration certificate of company B⁵⁰⁾.

48) Article 5 (2) 3 of the Foreign Investment Promotion Act and Attached Table 1 of the Enforcement Rules of the Act

49) Article 21 (1) of the Foreign Investment Promotion Act

50) Article 21 (3) of the Foreign Investment Promotion Act

- The foreign-invested company registration of company B can be cancelled ex officio by the Minister of Trade, Industry & Energy in accordance with Article 21 of the Foreign Investment Promotion Act. In this case, the original copy of the foreign-invested company registration certificate should be returned.

38 | Foreign investment and notification of business combination

Q ...

A U.K.-based company seeks to jointly establish a company with a Korean company as follows. In this case, does the company need to notify business combination to the FairTrade Commission?

- About the joint investment -

- Investor (shareholder)
 - Foreign investor (U.K. company): Sales of USD 500 million, total assets of USD 100 million
 - Korean partner: Sales of KRW 50 billion, total assets of KRW 10 billion
- Investment amount
 - Foreign investor (U.K. company): KRW 800 million (foreign investment ratio of 80%)
 - Korean partner: KRW 200 million

Joint-invested business: Manufacture of auto parts

A ...

The business combination should be notified. In the case where a company with sales or total assets of KRW 200 billion or more participates in joint business establishment with another company with sales or total assets of KRW 20 billion or more and becomes the jointly established business's largest investor, the company should notify business combination to the FairTrade Commission. The liability for notification of business combination shall equally apply to foreign investors or foreign invested companies, and the liability will be determined based on the size of the parent company, not the size of the joint enterprise. However, the liability for notification of business combination shall not apply when the foreign investor establishes a business independently, without a counterpart company.



Additional information

● Notification of business combination⁵¹⁾

- Business combinations liable for notification
 - * Company liable for notification: Companies with sales or assets of KRW 200 billion or more
 - * Counterpart company: Companies with sales or assets of KRW 20 billion or more
- Types of business combination subject to notification under the Monopoly Regulation and Fair Trade Act

Business combination method	Details
Acquisition of stocks	Where a company that holds not less than 20% (15% in the case of listed companies) of the total outstanding shares of another company (excluding stocks with no voting rights) becomes the largest shareholder of the company by acquiring additional stocks
Concurrent holding of executive position	Where the executive of a large-scale company concurrently holds an executive position of another company
Merger	Merger with another company
Business transfer	Transfer of a company's business
Participation in business establishment	Where a company becomes the largest investor of a newly established company

※ Large-scale companies: Companies with total asset or sales of KRW 2 trillion or more

- Due date for notification of business combination

⁵¹⁾ Article 12 of the Monopoly Regulation and Fair Trade Act

Notification	Entity liable for notification	Business combination method	Notification due date
Pre-notification	Large-scale company	Acquisition of shares	After business combination contract and before business combination is completed
		Merger	
		Business transfer	
		Participation in business establishment	After the resolution date of the meeting of shareholders (board of directors) and before the payment of the price of shares
Post-notification	Business entities other than large corporations	Acquisition of shares	Within 30 days of the stock certification transfer date
		Merger	Within 30 days of the date of merger registration
		Business transfer	Within 30 days of the date of payment of price of business transfer
		Participation in business establishment	Within 30 days of the following day of the due date for payment for stocks
	Large-scale company	Concurrent holding of executive position	Within 30 days of the date on which resolution of election was approved at the shareholders' meeting of the company where executive position is concurrently held

● **Penalties for failure to comply with the regulations on business combination notification (false notification included)** ⁵²⁾

- Fine of up to KRW 100 million for companies, and fine of up to KRW 10 million for executives and employees

※ Source: Fair Trade Commission (www.ftc.go.kr)

52) Article 69-2 (1) 2 of the Monopoly Regulation and Fair Trade Act

39 | Investment-in-kind of a foreign-invested company's shares

Q

If a foreign investor who has invested in accordance with the Foreign Investment Promotion Act invests in another foreign company through investment-in-kind with the stocks of a foreign-invested company he/she already owns, what is the procedure for foreign investment notification under the Foreign Investment Promotion Act?

A

The foreign investor is subject to stock transfer notification and notification of change in foreign-invested company registration details.



Additional information

If foreign investor A makes an investment-in-kind in foreign company B with the stocks of foreign-invested company C, A is transferring the stocks of company C to company B. Therefore, A should report the transfer of stocks and submit a document certifying the investment-in-kind (the document replaces the transfer contract). Also, because the foreign investor of company C is changed as a result of the stock transfer, the company should report a change in foreign-invested company registration details with the shareholder ledger attached.

Recovery of Investment Funds and Reinvestment

40 | Guarantee of foreign investors' overseas remittance

Q

The Foreign Investment Promotion Act prescribes that overseas remittance is guaranteed. What is the scope of the guarantee?

A

The guarantee of overseas remittance as prescribed by the Foreign Investment Promotion Act is an exception⁵³⁾ to the safeguard measures on foreign exchange transactions⁵⁴⁾, and is limited to the following: proceeds coming from the stocks acquired by a foreign investor; proceeds from the sale of stocks; and the principal, interest and service charges paid in accordance with a loan agreement^{55), 56)}.

53) Article 6 (4) of the Foreign Exchange Transaction Act: Exclusion of application to foreign investment in accordance with Article 2 (1) 4 of the Foreign Investment Promotion Act

54) The Minister of Strategy and Finance may take safeguard measures against foreign exchange transactions in the following cases:

- Where such measures are deemed inevitable due to natural calamities, etc.
- Where the balance of payments and international finance are confronted or are liable to be confronted with serious difficulty
- Where the movement of capital between Korea and a foreign country creates or is liable to create serious obstacles in carrying out currency policies, etc.

55) Article 2 (1) 4 (b) of the Foreign Investment Promotion Act

56) Article 3 (1) of the Foreign Investment Promotion Act

41 | Foreign investors' sales of stocks through off-exchange transaction

Q ... Can a foreign investor's stocks acquired through investment be sold off-exchange?

A ... A foreign investor's stocks acquired through investment can be sold off-exchange. Funds from the disposal of stocks are not restricted from overseas remittance, so long as the acquisition of the stocks is recognized as foreign investment^{57), 58)}.

42 | Receipt of proceeds from the sale of stocks in KRW currency

Q ... Can a Korean national sell its stocks to a foreigner and receive the payment for the stocks directly from the foreigner in foreign currency?

A ... After being remitted or carried into Korea, the proceeds from the sale of stocks in foreign currency can be sold to a foreign exchange bank and paid to the original shareholder in KRW currency. Another option is to pay the proceeds in foreign currency by account transfer through a foreign exchange bank⁵⁹⁾.



Additional information

Those who wish to pay the proceeds from current transactions exceeding USD 3,000 (amended June 29, 2017) by means of international payment (foreign currency) should notify the Governor of the Bank of Korea⁶⁰⁾.

57) Article 14-2 of the Enforcement Decree of the Financial Investment Services and Capital Markets Act

58) Article 3 of the Foreign Investment Promotion Act

59) Article 5-11 (1) of the Regulations on Foreign Exchange Transactions

60) Articles 4-2 (1), 5-11 (3) of the Regulations on Foreign Exchange Transactions

43 | Cancellation of registration of foreign-invested company due to stock transfer or capital reduction

Q

A foreign-invested company received foreign investment of KRW 100 million but its foreign investment amount was reduced to KRW 50 million after the foreign investor transferred part of its stocks to a Korean national. In this case, does the company need to cancel its registration as a foreign-invested company?

A

No.



Additional information

- Where a foreign investor has transferred all of the stocks, etc. held by himself/herself to a Korean national or a Korean corporation, or has ceased to hold any of the stocks, etc. previously held by himself/herself due to the capital reduction of the foreign-invested company concerned, the Minister of Trade, Industry and Energy shall cancel the registration of the foreign-invested company concerned⁶¹⁾.
- After registering as a foreign-invested company, even if the foreign investment amount is reduced to less than KRW 100 million due to partial transfer of stocks or shares or capital decrease, the investment shall still be considered foreign investment⁶²⁾.
- Even if the foreign investment amount is reduced to less than KRW 100 million, the foreign-invested company registration certificate is still needed for certain purposes, so the residual investment amount is still considered foreign investment and the registration of foreign-invested company cannot be cancelled immediately. For example, in the above case, the foreign-invested company registration certificate is needed when the foreign investor remits the proceeds from the sale of its remaining stocks worth KRW 50 million to his/her home country.

61) Article 21 (4) 2 of the Enforcement Decree of the Foreign Investment Promotion Act

62) Article 2 (2) of the Enforcement Decree of the Foreign Investment Promotion Act

- However, foreign investors may experience limited eligibility for incentives and benefits. For example, when a foreign investor needs to extend his/her visa and his/her foreign-invested company registration certificate bears an investment amount that is below the minimum required amount, the foreign investor may experience difficulty in extending his/her visa.

44 | Recognition of foreign investment after transfer of shares or capital reduction

Q

If a foreign investor owning an 11 percent stake in a company transfers three percent to a Korean national or a foreigner and then acquires an additional two percent stake in the company to maintain its status as a foreign investor as stipulated in the Foreign Investment Promotion Act, can the eight percent stake already owned by the foreign investor and the two percent stake additionally acquired be recognized as foreign investment?

A

Yes.



Additional information

- Where a business fails to meet the requirements for foreign investment due to partial transfer of shares or capital reduction after it is registered as a foreign-invested company, it shall continue to be deemed a foreign investment⁶³⁾.
- Also, if a person registered as a foreign investor additionally acquires the company's stocks worth less than KRW 100 million or representing less than 10 percent of the company's total stocks, it shall be recognized as foreign investment. (The foreign investment requirements in the Foreign Investment Promotion Act shall not apply because it is considered additional investment.)

63) Article 2 (2) of the Enforcement Decree of the Foreign Investment Promotion Act

45 | Re-Investment of KRW currency funds received through capital decrease for value

Q

Can KRW currency funds received by a foreigner through capital decrease for value be recognized as an object of investment?

A

Yes.



Additional information

- Capital decrease for value is performed by returning part of the share value to the shareholder or by cancelling the company's stocks. In this regard, capital decrease for value is considered disposal of stocks.
- In accordance with the Foreign Exchange Transaction Regulations⁶⁴⁾, when funds from foreigners' disposal of stocks and real estate are converted to foreign currency and remitted, the funds qualify as an object of investment as prescribed by the Foreign Investment Promotion Act⁶⁵⁾. In this regard, funds from the disposal of stocks and funds from capital decrease for value are treated equally as objects of investment.

46 | Re-Investment of a foreign-invested company's residual liquidated assets

Q

Can the residual liquidated assets from a foreign-invested company's dissolution be used as an object of investment to acquire new or existing stocks of a domestic company?

A

Considered possible⁶⁶⁾.

64) Article 4-2 of the Foreign Exchange Transaction Regulations

65) Refer to Article 2 (1) 8 (a) of the Foreign Investment Promotion Act

66) On-line civil petition 2006-904, Feb. 2006

Interpretation of foreign investment promotion laws, Ministry of Commerce, Industry and Energy, Dec. 2007



Additional information

- Where a foreigner has acquired stocks, etc. as an object of investment as prescribed by Article 23 (1) 7 of the Foreign Investment Promotion Act, it is recognized as foreign investment.
- Therefore, where the residual assets (KRW currency) from liquidation of a domestic company or the closure of a domestic branch or office are invested, both new and existing stocks can be acquired.

47 | Sourcing a capital increase for value with dividends

Q

If a foreign-invested company pays out its reserve funds as dividend and then calls on shareholders including foreigners to source a capital increase for value with the dividend, is this recognized as foreign investment?

A

Yes.



Additional information

This is recognized as an object of investment prescribed by the Foreign Investment Promotion Act⁶⁷⁾, and due to the capital increase, it is recognized as a foreign investment regardless of the investment ratio⁶⁸⁾.

67) Article 2 (1) 8 of the Foreign Investment Promotion Act

68) Ministry of Commerce, Industry and Energy's administrative interpretation no. 55121-159, Jul. 9, 2001

48 | A foreign-invested company's re-investment of earned surplus

Q

If a foreign-invested company re-invests its earned surplus, can this be recognized as foreign investment under the Foreign Investment Promotion Act?

A

No.



Additional information

- Unlike OECD standards, indirect acquisition of stocks or shares, stocks held by a branch, re-investment of earned surplus and inter-company debt (with the exception of long-term loans with a maturity of five years or longer) are not recognized as foreign investment in Korea. However, re-investment of dividends is recognized as foreign investment⁶⁹⁾.
- If earned surplus is re-invested after it is appropriated as dividend, it is recognized as foreign investment. However, if earned surplus is not appropriated as dividend, it shall not be recognized as foreign investment.
- In other words, because earned surplus is the retained earnings of a foreign-invested company and does not involve an act of investment by a foreigner, it cannot be considered foreign investment⁷⁰⁾.

69) Article 2 (Definitions) (1) 4 of the Foreign Investment Promotion Act

70) Article 2 (Definitions) (1) 6 of the Foreign Investment Promotion Act

Businesses Restricted From Foreign Investment

49 | Permission of foreigners to operate a housing site development and supply business

Q ... Are foreigners permitted to operate a housing site development and supply business?

A ... Yes, provided that certain conditions are met.



Additional information

A foreigner may engage in a housing site development and supply business only through a corporation established through joint investment with the state or local government, the Korea Land and Housing Corporation or local government-invested public corporations (the stake owned shall be less than 50 percent)⁷¹⁾.

50 | Operation of a massage business

Q ... Can a Thai individual open a traditional Thai massage business in Korea? If so, can a professional massage therapist be hired from Thailand?

A ... A foreign investor cannot open a massage business independently, but only through a partnership or a joint investment. Also, a foreigner cannot be hired as a foot massage therapist, esthetician, etc.

71) Article 7 (2) of the Housing Site Development Promotion Act and Article 6-4 of the Enforcement Decree of the Act



Additional information

- In Korea, qualification as a massage therapist is limited to visually impaired persons as prescribed by the Welfare of Disabled Persons Act who have completed the required training and are certified by the governor of the city or province⁷²⁾.
- Currently, the immigration office does not issue a certificate of confirmation of visa issuance to a foreigner who intends to engage in a skin massage, foot massage or sports massage business and plans to operate a massage business independently or work as a massage therapist himself/herself. Also, a foreigner cannot be hired as a foot massage therapist, esthetician, etc.

51 | Foreigners' operation of a foreign patient attraction business

Q

... Can foreigners operate a foreign patient attraction business?

A

... Yes, because it is not a business restricted from foreign investment.



Additional information

- For a foreigner to operate a foreign patient attraction business, he/she should establish a foreign-invested company with capital of KRW 100 million or more and subscribe to a guarantee insurance policy (coverage amount of KRW 100 million or more, policy period of one year or longer). Afterwards, the foreigner should apply for registration as a foreign patient attraction business at the Korea Health Industry Development Institute (Foreign patient attraction information portal: <https://medicalkorea.khidi.or.kr>).

⁷²⁾ Article 82 of the Medical Service Act

- Because insurance companies, mutual companies, certified insurance brokers, etc. under Article 2 of the Insurance Business Act cannot operate a foreign patient attraction business, a domestic company that does not operate such businesses should be established. In other words, to operate a foreign patient attraction business, it is advised to establish a business that operates a similar line of business such as a travel business or trade business. After notifying foreign investment and completing foreign investment notification, a foreign patient attraction business can be concurrently operated.

52 | Foreigners' investment in an educational institute for the purpose of making profit

Q

Can a foreigner invest in a Korean junior or senior high school for the purpose of making profit?

A

Currently, foreign investment for the purpose of making profit in such areas is banned by law.



Additional information

- “Businesses in which foreign investment is restricted” is not an expression used by the Foreign Investment Promotion Act. It is used by the Minister of Trade, Industry and Energy’s “Notification on foreign investment – Appendix 1” and “Regulations on foreign investment – Attached table 1”.
- Foreign investment in education business is exceptionally accepted for certain lifelong education facilities and private academies⁷³⁾, but currently, investment in junior or senior high school for the purpose of making profit is not permitted.

73) Attached Table 1 of the Regulation on Foreign Investment promulgated by the Ministry of Trade, Industry & Energy

- Foreigners can establish a university pursuant to the Higher Education Act, but this can be seen as an incorporated foundation as prescribed by the Civil Act and does not constitute foreign investment under the Foreign Investment Promotion Act. It should be noted that to operate such business, funds should be introduced in accordance with the procedures prescribed by the Foreign Exchange Transaction Act instead of the Foreign Investment Promotion Act.

53 | Permission of foreign investment in the automotive financing business

Q

Are foreigners restricted from investing in an installment financing business for the sales of foreign-brand cars in Korea?

A

Installment financing is not restricted from foreign investment, so foreigners are free to invest in this business. However, those who seek to engage in an installment financing business should file for registration at the Financial Services Commission, and there is a minimum capital requirement of KRW 20 billion.

54 | A foreign-invested company's acquisition of stocks of a meat wholesale company

Q

Denmark-based company Danish Meat, which had been considering acquiring a 100 percent stake in Korea-based Seoul Meat Wholesale co., discovered that the foreign investment ratio should be less than 50 percent for business in the meat wholesale industry (KSIC: 46312). In this regard, the company plans to independently establish Danish Korea co. and acquire a 100 percent stake in Seoul Meat Wholesale co. Is this kind of investment permitted by law?

A

No. Foreign-invested company Danish Korea is a domestic company established under the Commercial Act and other Korean laws, and therefore does not qualify as a foreign investor as prescribed by the Foreign Investment Promotion Act. However, the company can be considered a foreign investor if it acquires the stocks of a domestic company operating a business restricted from foreign investment. In this regard, Danish Korea co. is banned from acquiring a stake of 50 percent or more in company Seoul Meat Wholesale co.



Additional information

- A foreign-invested company which has been registered shall be banned from any of the following⁷⁴⁾:
 - Operating a business where foreign investment is restricted beyond its allowed limit
 - Acquiring stocks of another domestic company operating a business restricted from foreign investment beyond the permitted limit.

⁷⁴⁾ Article 21 (5) of the Foreign Investment Promotion Act

55 | Foreign investment in cryptocurrency transaction business

Q

A foreigner plans to invest in a domestic company to operate a cryptocurrency transaction-related business in Korea. In this case, can foreign direct investment pursuant to the Foreign Investment Promotion Act be made?

A

Cryptocurrency transaction itself is not foreign direct investment. However, foreign investment is permitted for making an equity investment (including the establishment of a new domestic firm) in a domestic company operating a cryptocurrency exchange developing cryptocurrency related software.



Additional information

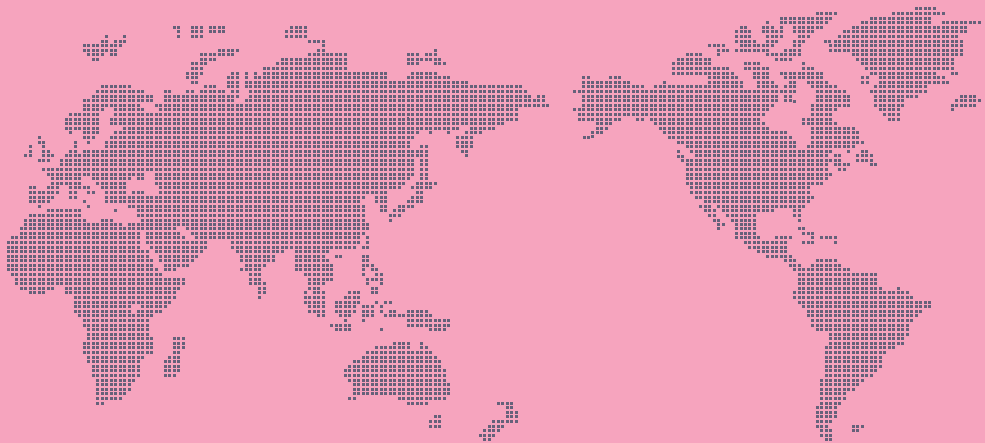
- Because there are no definitions in the Korean law on cryptocurrency yet, it is difficult to precisely categorize related businesses.
- However, because there are domestic companies that operate a cryptocurrency exchange and cryptocurrency is traded through such exchanges, foreign investment notification and registration of foreign-invested company can be made by referring to the Korea Standard Industrial Classification Code in the table below:

Statistics Korea's classification of cryptocurrency related businesses	Korea Standard Industrial Classification Code and corresponding business
Development and supply of general software related to cryptocurrency	58222 (Application software development and supply)
Development and supply of customized software related to cryptocurrency	62010 (Computer programming services)
Management and operation of computer systems related to cryptocurrency mining	62090 (Other information technology and computer operation related services)
Operation of exchange or brokerage of intangible information goods	63999 (Other information service activities)

- However, direct cryptocurrency transaction by a foreigner (or foreign company) requires the opening of an account at the cryptocurrency exchange, and transactions are made through a domestic foreign exchange bank under the Foreign Exchange Transaction Act. Therefore, this cannot be considered foreign investment under the Foreign Investment Promotion Act.

Q&A

on FDI in Korea



II. Incentives for Foreign Investment

General

Foreign Investment Zones

Free Economic Zones

General

56 | Foreign-invested companies' short-term foreign borrowings

Q

A foreign-invested company that operates an auto parts manufacturing business with investments from a U.S.-based company (parent company) borrowed USD 50 million from its parent company for one year. In this case, what is the notification procedure? (The company's foreign investment amount is stated as USD 120 million and the foreign investment ratio is 100 percent.)

A

Because the loan is over USD 30 million, the Minister of Strategy and Finance should be notified through a designated foreign exchange bank. However, in the above case, the foreign-invested company can notify the head of the foreign exchange bank and then borrow the funds.



Additional information

- Special cases concerning a foreign-invested company's notification of short-term borrowing of foreign-currency funds
 - Foreign borrowing by a resident (for-profit corporation)
 - * When a resident (for-profit corporation) seeks to borrow foreign funds from a non-resident, the head of a designated foreign exchange bank should be notified.
 - * However, in the case that the amount of the funds exceeds USD 30 million (including the loans accumulated over a period of one year leading to the date on which loan notification has been made), the Minister of Strategy and Finance should be notified via a designated foreign exchange bank.
 - * Notification form: Form no. 7-2 of the Regulations on Foreign Exchange Transactions (loan agreement notification)
 - Special cases concerning a foreign-invested company's notification of short-term borrowing of foreign-currency funds

- * Detail: In the case that a foreign-invested company that meets certain qualifications borrows short term foreign funds within the upper borrowing limit, the company can borrow the funds just by notifying the head of the designated foreign exchange bank, even if the amount exceeds USD 30 million.
- Eligibility
 - * Companies engaged in general manufacturing as prescribed by the Foreign Investment Promotion Act (“general manufacturers”)
 - * Foreign-invested companies which are granted eligibility for tax incentives by the Minister of Finance and Strategy and which engage in businesses accompanying high technology and industry-supporting service businesses* (“businesses accompanying high technology”)
 - * On Feb. 7, 2017, “businesses accompanying high technology and industry supporting service businesses” were replaced with “businesses accompanying new growth driver industry technology.”
- Upper borrowing limit
 - * Businesses accompanying high technology: Identical to the foreign investment amount (in foreign currency, referring to the investment amount on the foreign-invested company registration certificate and the unregistered payment for shares). However, in the case of companies engaged in businesses accompanying high-technology with foreign investment ratio of less than 1/3, the upper borrowing limit shall be 75/100 of the foreign investment amount.
 - * General manufacturers: 50/100 of the foreign investment amount
- Definition of short-term foreign borrowing⁷⁶⁾
 - * Foreign-currency funds with redemption period of one year or less from the date of fund withdrawal
 - * Foreign-currency borrowings with a redemption period of over one year which can be repaid in installments or prepaid within one year from the date of withdrawing the funds (excluding cases in which a borrowing has an average loan period of more than one year and the repaid amount within one year is 20/100 or less)

76) Article 1-2 Subparagraph 5 of the Regulations on Foreign Exchange Transactions

57 | Upper limit on foreign-invested companies' payment of dividends with stocks

Q

Can a foreign-invested company pay dividends with its stocks up to an amount corresponding to more than 50 percent of its total dividend amount?

A

A foreign-invested company can pay dividends with its stocks up to an amount corresponding to its total dividend amount.



Additional information

- A foreign-invested company can pay dividends with its newly issued stocks after a resolution by a general meeting of shareholders. Under Article 462-2 (1) of the Commercial Act, stock dividends cannot exceed 50 percent of the total dividends to be paid. However, a foreign-invested company as prescribed by the Foreign Investment Promotion Act can pay out dividends with its newly issued stocks up to an amount equal to its total profit available for dividend⁷⁷⁾.
- Upper limit on dividend payment = Net assets under the balance sheet – Capital – Capital reserves and earned surplus reserves – Earned surplus reserves to be reserved for the current period – Unrealized profit⁷⁸⁾
- The exceptional clause on foreign-invested companies' payment of dividends with stocks is to provide the opportunity for corporate expansion by transferring profit generated through operational activities into capital, and to prevent the overseas outflow of dividends should the profits be paid out to foreign shareholders as dividends.
- However, the special provision requires a special resolution by a general meeting of shareholders (adopted by an affirmative vote representing no less than two thirds of the voting rights of the shareholders present at the general meeting of shareholders and at least one third of the total outstanding

77) Article 30 (Relations with Other Acts and International Treaties) (2) of the Foreign Investment Promotion Act, Article 462-2 (1) of the Commercial Act

78) Article 462 (1) of the Commercial Act

shares)⁷⁹⁾.

58 | Incentives for establishing a foreign school

Q

Does the government provide incentives for establishing a foreign school?

A

Yes. The Foreign Investment Committee makes decisions on granting incentives for medical facilities, educational facilities and housings that contribute to foreign investment promotion.



Additional information

- In principle, the Foreign Investment Committee decides whether to grant incentives for educational facilities that contribute to foreign investment promotion, and also determines the amount of incentives⁸⁰⁾.
- Schools eligible for incentives: Foreign schools whose school establishment plan has been approved⁸¹⁾ by the superintendent of education of the city or province.
- Costs covered by incentives: Land purchase cost, facility construction cost
- Incentive amount: The incentive amount shall be identical to that provided by the local government. (In the event that a local government provides land for lease, etc., the incentive amount shall be determined by the Foreign Investment Committee.)
- In the event that the sum of the incentives provided by the central and local governments is or exceeds KRW 5 billion, the incentive amount shall be 40/100 of KRW 5 billion for metropolitan areas, and 50/100 of KRW 5 billion for non-metropolitan areas.

79) Article 30 (Relations with Other Acts and International Treaties) (2) of the Foreign Investment Promotion Act, Article 434 of the Commercial Act

80) Article 15 (1) of the guidelines for the central government's monetary support for local governments' activities to attract foreign investment

81) Article 15 of the regulations on the establishment and operation of elementary, middle and high schools

- For the amount in excess of KRW 5 billion, the Foreign Investment Committee shall determine the incentive ratio based on the local government's foreign investment attraction performance, financial independence, number of foreign residents' children, etc.⁸²⁾.
- In the event that a local government covers one or more of the following expenses in order to enhance the quality of education in a foreign school, the central government may provide incentives equal to the amount of the expense covered by the local government⁸³⁾.
 - * Expense for acquisition of certification by an international certification organization
 - * Expense for introduction of an educational course on international standardization
 - * Expense for establishing an additional multinational educational course

59 | Tax incentives for small and medium-sized start-ups

Q

If a foreigner invests in a tourist hotel business in Jeju island, can the foreigner be recognized as a small and medium-sized start-up and become eligible for tax incentives?

A

In accordance with the Foreign Investment Promotion Act, regulations on tax incentives in the laws on taxation applied to a Korean national or a Korean company shall be equally applied to a foreigner or foreign-invested company unless otherwise stated by law⁸⁴⁾. Therefore, a foreign-invested company is eligible for the same tax incentives granted to a domestic company so far as it satisfies the conditions for qualifying as a small and medium-sized start-up.

82) Article 15 (2) of the guidelines for the central government's monetary support for local governments' activities to attract foreign investment

83) Article 15 (3) of the guidelines for the central government's monetary support for local governments' activities to attract foreign investment

84) Article 3 (3) of the Foreign Investment Promotion Act



Additional information

- **Requirements for small and medium-sized start-ups to be eligible for tax reduction/exemption**
 - Eligible businesses
 - * Tourist accommodation businesses (hotel business and recreational condominium business), international conference business, amusement facility business, special recreation service business, resort complex business (included on Jan. 1, 2010), etc.
 - * Manufacturing business, construction business, publishing business, businesses operating welfare facilities for senior citizens, restaurant business, etc.
 - Tax incentives
 - * Corporate tax reduction⁸⁵⁾
 - Small and medium enterprises established in an area outside the overconcentration control region of the Seoul Metropolitan area on or before Dec. 31, 2018
 - The amount of corporate tax equivalent to 50/100 of the corporate tax levied on income accruing from the relevant business for the taxable year in which income accrued for the first time from the relevant business (if no income accrued from the relevant business by the taxable year falling on the fifth anniversary from the date the relevant business commenced, the taxable year that the date of the fifth anniversary belongs), and also within the four subsequent taxable years from the date the following taxable year commences.
 - * Acquisition tax reduction⁸⁶⁾
 - Small and medium enterprises established in an area outside the overconcentration control region of the Seoul Metropolitan area on or before Dec. 31, 2020.
 - For business-purpose assets acquired within four years of the date of business commencement to operate the relevant business, an amount equivalent to 75/100 of the acquisition tax shall be reduced.

85) Article 6 (1) of the Restriction of Special Taxation Act

86) Article 58-3 (1) of the Restriction of Special Local Taxation Act

※ Collection of reduced tax: In the case that the properties for which acquisition tax has been reduced are not directly used for the business, used for another purpose, or disposed of (or leased) without justifiable cause within two years of the date of acquisition, the amount of reduced tax shall be collected.

* Reduction of property tax⁸⁷⁾

- Small and medium enterprises established in an area outside the overconcentration control region of the Seoul Metropolitan area on or before Dec. 31, 2020.
 - Property tax is reduced by 100 percent for business-purpose properties directly used for the relevant business for three years from the date of business commencement, and 50 percent for the following two years.
- Requirements for qualification as a small and medium enterprise⁸⁸⁾
- * The amount of total assets is less than KRW 500 billion.
 - * The average sales of the preceding three business years or the annual sales (average sales, etc.) shall meet the standards in attached Table 1 below:

[Table 1] Standards for qualification as a small and medium enterprise based on average sales, etc. by main business

Main business of enterprise	Classification code	Sales
1. Manufacture of wearing apparel, clothing accessories and fur articles	C14	Average sales, etc. of KRW 150 billion or less
2. Manufacture of leather, luggage and footwear	C15	
3. Manufacture of pulp, paper and paper products	C17	
4. Manufacture of basic metals	C24	
5. Manufacture of electrical equipment	C28	
6. Manufacture of furniture	C32	

87) Article 58-3 (2) of the Restriction of Special Local Taxation Act

88) Article 2 of the Framework Act on Small and Medium Enterprises and Article 3 of its Enforcement Decree

Main business of enterprise	Classification code	Sales
7. Agriculture, forestry and fishing	A	Average sales, etc. of KRW 100 billion or less
8. Mining and quarrying	B	
9. Manufacture of food products	C10	
10. Manufacture of tobacco products	C12	
11. Manufacture of textiles, except apparel	C13	
12. Manufacture of wood and of products of wood and cork; except furniture	C16	
13. Manufacture of coke, briquettes and refined petroleum products	C19	
14. Manufacture of chemicals and chemical products; except pharmaceuticals and medicinal chemicals	C20	
15. Manufacture of rubber and plastics products	C22	
16. Manufacture of fabricated metal products, except machinery and furniture	C25	
17. Manufacture of electronic components, computer, visual sounding and communication equipment	C26	
18. Manufacture of other machinery and equipment	C29	
19. Manufacture of motor vehicles, trailers and semitrailers	C30	
20. Manufacture of other transport equipment	C31	
21. Electricity, gas, steam and air conditioning supply	D	
22. Water supply	E36	
23. Construction	F	
24. Wholesale and retail trade	G	

Main business of enterprise	Classification code	Sales
25. Manufacture of beverages	C11	Average sales, etc. of KRW 80 billion or less
26. Printing and reproduction of recorded media	C18	
27. Manufacture of pharmaceuticals, medicinal chemical and botanical products	C21	
28. Manufacture of other non-metallic mineral products	C23	
29. Manufacture of medical, precision and optical instruments, watches and clocks	C27	
30. Other manufacturing	C33	
31. Water supply, sewage, waste management, materials recovery	E (excluding E36)	
32. Transportation and storage	H	
33. Information and communication	J	
34. Maintenance and repair services of industrial machinery and equipment	C34	Average sales, etc. of KRW 60 billion or less
35. Professional, scientific and technical activities	M	
36. Business facilities management and business support services, rental and leasing activities (excluding leasing business)	N (excluding N76)	
37. Human health and social work activities	Q	
38. Arts, sports and recreation related services	R	
39. Repair and other personal services	S	

Main business of enterprise	Classification code	Sales
40. Accommodation and food service	I	Average sales, etc. of KRW 40 billion or less
41. Financial and insurance activities	K	
42. Real estate activities	L	
43. Rental and leasing activities	N76	
44. Education	P	

| Note |

1. The classification of major businesses and the classification code are in accordance with the Korea Standard Industrial Classification publicly announced by the head of Statistics Korea pursuant to Article 22 of the Statistics Act.
2. Notwithstanding items 19 and 20 of the above table, in the case of manufacture of seats for motor vehicles (new products) (C30393), railway car set manufacturing among manufacture of specialized parts of railway or tramway locomotives or of rolling stock (C31202), and aircraft seat manufacturing among manufacture of aircraft parts and accessories, the average sales, etc. shall be KRW 150 billion or less.

60 | Round-trip investment by a foreigner

Q

A Korean corporation jointly established a local company in Los Angeles with a U.S. company. If the local company in LA invests in Korea, can this be recognized as foreign investment as prescribed by the Foreign Investment Promotion Act?

A

Yes, but eligibility for incentives may be limited for such round trip investment by a foreigner.

61 | Tax incentives for Korean companies that withdraw from overseas markets and relocate to Korea (i.e. “U-turn companies”)

Q

If a foreign-invested company’s subsidiary in China withdraws from the Chinese market and relocates to Korea, is the company eligible for tax reduction and exemption?

A

Yes, so long as the company satisfies certain conditions ⁸⁹⁾.



Additional information

● Tax incentives for “U-turn companies”

- Qualification as a “U-turn company”: A Korean national or a company established under Korean law (including foreign-invested companies as prescribed by the Foreign Investment Promotion Act) which owns or has control over a business that has been in operation for two years or longer in a foreign country.
- Applicable period: Up to Dec. 31, 2018
- Areas eligible for incentives: Businesses established outside overconcentration control areas* as defined under the Seoul Metropolitan Area Readjustment Planning Act
 - * Formerly businesses established outside the Seoul Metropolitan area (Seoul Metropolitan city, Incheon Metropolitan City and Gyeonggido Province)
- Eligible businesses: The line of business under the Korea Standard Industry Classification before and after relocation to Korea should be identical.

89) Article 104-24 of the Restriction of Taxation Act, Article 104-21 of the Enforcement Decree of the Act

– Details of tax reduction and exemption

Type of relocation	Tax reduction/exemption	Sale/closure of overseas business establishment
Relocating a business that has been in operation in a foreign country for two years or longer (Type I)	<ul style="list-style-type: none"> From the taxable year in which the date of relocation belongs through the taxable year that finishes within four years of the beginning of the following taxable year: 100/100 of the income tax or corporate tax shall be reduced for the income incurred after relocation. For the taxable years that finish within two years thereafter, 50/100 of the income tax or corporate tax will be reduced. 	<ul style="list-style-type: none"> The overseas business establishment that has been in operation should be sold or closed down within four years of the date of establishing a business or commencing business outside the metropolitan area. A business should be established outside the metropolitan area within one year of the date of sale or closure of the overseas business establishment.
A small and medium-sized company relocating to Korea while maintaining or reducing the size of its overseas business establishment that has been in operation for two years or longer. Additionally, the company should not have a business establishment already in operation in Korea [※] . (Type II)	<ul style="list-style-type: none"> From the taxable year in which the date of relocation belongs through the taxable year that finishes within two years of the beginning of the following taxable year: 100/100 of the income tax or corporate tax shall be reduced. For the taxable years that finish within two years thereafter, 50/100 of the income tax or corporate tax will be reduced. 	Not applicable ^{※※}

※ Where production from a business operated overseas was reduced by 50/100 or more and a confirmation of the Minister of Trade, Industry and Energy was obtained, it is permitted to have a business establishment in Korea.

- ※※ Previously, tax incentives were not granted if the overseas business establishment was closed or its ownership was transferred, but with the new requirements for tax incentives (Type II, Jan. 1, 2013), ownership transfer or closure is now granted if certain investment requirements are satisfied.

62 | Tax incentives for foreign engineers

Q

Are there any tax reduction or exemption for earned income of foreign engineers?

A

If a foreign engineer meets certain conditions, 50% of income tax shall be reduced for his/her earned income incurred from the first day of providing service in Korea to the month on which the second year of such date belongs.



Additional information

● Earned income tax reduction for foreign engineers

- Tax reduction: A foreign engineer shall be granted tax reduction of an amount equivalent to 50 percent of the income tax derived from the offer of services to a national within Korea.
- Earned income eligible for tax reduction: Tax reduction applies to earned income incurred from the first day of providing service in Korea (applicable to the period from Jan. 1, 2010 to Dec. 31, 2018) to the month to which the date on which two years elapse from such date belongs.
- Scope of foreign engineers: Foreigners without a Korean nationality who satisfy the following:
 - ③ A person who provides technology in Korea under an engineering technology introduction contract (worth USD 300,000 or more) as prescribed by Article 2 Subparagraph 5 of the Engineering Industry Promotion Act
 - ④ A person who works as a researcher at a research and development facility of a foreign-invested company that satisfies the following conditions:
 - * The company has an independent research facility

- * The amount of investment in R&D facilities is KRW 100 million or more
- * The foreign investment ratio represents at least 30 percent of the company's total stocks with voting rights
- How to receive tax reduction
An application for reduction of foreign engineers; earned income tax (form no. 7) should be submitted to the head of the competent tax office via the withholding agent.

● **Special taxation for the earned income of foreign workers**

- The following earned income can be taxed separately by applying a flat tax rate of 19 percent for the earned income received from the day of first providing service in Korea to the taxable period to which belongs the fifth year of providing service in Korea.
 - * Where a foreign worker provides service in Korea for the first time on or before Dec. 31, 2018, the earned income paid in Korea from the first day of providing service in Korea to the taxable period to which belongs the fifth year of doing service in Korea.
 - * The earned income that a foreign worker receives in return for his/her labor in the regional headquarters* prescribed by Article 20-2 (4) 1 of the Enforcement Decree of the Foreign Investment Promotion Act from the first day of providing service in Korea to the taxable period to which belongs the fifth year of doing service in Korea.
 - * A domestic corporation that performs support and coordination of the core functions of two or more overseas companies such as manufacturing, sales, logistics, and HR, which satisfies the standards on full-time employees, parent company requirements, etc. as prescribed by the Decree of the Ministry of Trade, Industry and Energy.
- When choosing separate taxation, clauses on non-taxation, tax reduction and exemption and tax credit related to income tax as prescribed by the Income Tax Act and the Restriction of Special Taxation Act shall not apply.
- How to apply:
 - * Where a year-end tax settlement of earned income or finalized return of global income tax base is filed, attach an application for foreign workers' application of flat tax rate (form no. 8) and submit it to the withholding agent, tax association or head of the competent tax office.
 - * A foreign worker who wishes to have the flat tax rate (19%) withheld for his/her earned income should submit an application for withholding flat tax rate (form no. 8-2) by the 10th day of the following month of the month of providing labor to the competent tax office via a withholding agent.

63 | Application for tax reduction for businesses accompanying new growth driver industry technology

Q

If a foreign-invested company satisfies the requirements as an industry owning new growth driver industry technology and original technology, what are the procedures and documents required to receive tax incentives?

A

In the case of tax incentives for new growth driver industries, a technological assessment is needed. Therefore, three copies each of an application form, checklist, application details and supporting documents should be submitted via mail to apply.



Additional information

- Documents to be submitted for application for tax reduction/exemption for businesses accompanying new growth driver industry technology
 - (1) Application form for tax reduction/exemption for new growth driver industry technology
 - List of documents to be submitted as prescribed by Article 5 and Attached Table 2 of the Regulations on Tax Reduction and Exemption for Foreign Investment
 - ① Application for tax reduction/exemption
 - ② Notification of foreign investment in the form of acquisition of stocks, etc. or contribution
 - ③ Contract on technology introduction, etc.
 - ④ Industrial property rights such as patent (limited to those related to the technology concerned)
 - ⑤ Statement on the new growth driver industry technology (including a 1-2 page summary)
 - ⑥ Statement of manufacturing method and manufacturing process (limited to manufacturing technology) and approval of factory establishment
 - ⑦ Documents certifying economic effects or technological functions
 - Name of new growth driver industry technology subject to tax

reduction or exemption (submit documentary evidence such as industrial property rights): Classification according to Attached Table 7 of the Enforcement Decree of the Restriction of Special Taxation Act

- Statement of new growth driver industry technology subject to tax reduction or exemption (state in detail)
- Whether a foreign-invested company installs or operates a factory facility (business establishment) to operate a business accompanying the new growth driver industry business and the location of the factory (attach documentary evidence)

(2) Checklist

1. Whether the technology concerned is listed in Attached Table 7 of the Enforcement Decree of the Restriction of Special Taxation Act or Attached Table 14 of the Enforcement Rules of the Act (to be stated in detail in the application for tax reduction or exemption)
 - e.g.) The technology falls under 3) Visual recognition technology under a. Artificial intelligence under 2. Intelligence Information of Attached Table 8 (technologies subject to tax credit by field of new growth driver and original technology)
2. Submission of documents proving that the technology concerned is one that is accompanied by a new growth driver industry business contributing to the upgrading of Korea's industrial structure and strengthening of international competitiveness
 - Documents that can certify patent rights, certification by an authorized institute, test passage certificate and documents that can certify technology assessment results, etc.
3. Submission of explanation of technology
 - 1) Submission of summary of core of technology (1-2 pages)
 - 2) Submission of characteristics and explanation of technology
 - 3) Statement of business that is intended to be operated with the technology
4. Submission of documents certifying that a factory facility (business establishment) will be installed or operated to operate the business accompanying the technology
 - 1) Submission of documents on manufacturing method and manufacturing process (limited to manufacturing business)
 - 2) Documents certifying the location of the factory where the product is to be directly manufactured using the technology

5. Whether there is a business directly related to new growth driver industries (i.e., businesses subject to tax reduction or exemption)
 - Submission of documents related to the business subject to tax reduction or exemption and the business' manufacturing method and manufacturing process
 6. Submission of foreign investment notification in the form of acquisition of shares or contribution
 7. In the case of certifying documents that are in English, a Korean translated version should be submitted as well.
- **Where to submit the application for tax reduction or exemption and time it takes to reach a decision**
 - An application for tax reduction or exemption should be submitted to the Minister of Strategy and Finance until the last day of the taxable year to which the business commencement date of the foreign-invested company belongs.
 - The Minister of Strategy and Finance should consult with the competent minister and decide whether to grant tax reduction or exemption and notify the decision to the applicant.
 - **Deadline for application for tax reduction or exemption**
 - The deadline is the last day of the taxable year to which the foreign-invested company's business commencement date belongs. For example, in the case of two companies whose business year is Jan. 1 through Dec. 31, which one established on Jan. 1, 2018 and the other established on Dec. 25, 2018, both companies should apply for tax reduction or exemption by Dec. 31, 2018.

64 | Tax reduction & exemption for original technology and new growth driver industry technology

Q

Is tax reduction or exemption granted for Korean companies owning new growth driver technology and original technology receiving foreign investment?

A

Yes. Regardless of whether the technology concerned originated from Korea or abroad, introduction of technology from overseas is not an essential requirement because the purpose is to nurture businesses accompanying new growth driver industry technologies.



Additional information

- **Requirements for tax reduction or exemption for businesses accompanying new growth driver industry technology**
 - Businesses that accompany new growth driver industry technology* required for upgrading the domestic industrial structure and strengthening of global competitiveness
 - Businesses that install or operate a factory facility (business establishment for non-manufacturing businesses) to operate business
 - The foreign investment amount is USD 2 million or more
 - * New growth driver industry technology: Original technology and new growth driver industry technology by field (157 technologies) + Technologies on materials and manufacturing process, etc. directly related to the new growth driver industry technology and original technology (7 technologies on materials and manufacturing, 4 technologies on manufacturing process)
- **Businesses that accompany new growth driver industry technology (11 categories, 36 sub-categories)**
 1. Future motor vehicles: Autonomous motor vehicles, electric-powered motor vehicles

2. Intelligence information: Artificial intelligence, IoT, cloud, big data, wearable smart devices
3. Next-generation software security: Base software, convergence security
4. Next-generation broadcasting & communication: 5G telecommunication, UHD
5. Next-generation electronic information devices: Intelligent semiconductors and sensors, materials of semiconductors, etc., OLEDs, 3D printing
6. Next generation broadcasting and communications: 5G mobile communications, UHD
7. Bio-health: Bio-compound medicines, medical equipment and health care, bio-agricultural and fishery products and foods
8. New industries and environment of energy: Energy storage system (ES), new renewable energy, improvement of energy efficiency, reduction of greenhouse gases and reducing of carbon, nuclear energy
9. Composite materials: High-performance fiber, ultra-light metals, hyperplastics, titanium
10. Robots: Advanced manufacturing and industrial robots, safety robots, medical and life robots, common robots
11. Aerospace: Unmanned vehicles, space

65 | Documents to be submitted when applying for tax reduction or exemption as a stand-alone foreign investment zone

Q

What are the procedures and documents required for a foreign-invested company to be granted tax reduction or exemption as a stand-alone foreign investment zone?

A

To apply for tax reduction or exemption as a stand-alone foreign investment zone, the area needs to be designated as a stand-alone foreign investment zone first.

For an area to be designated as a foreign investment zone, the local autonomous government to which the area belongs should make an application, which is deliberated by the foreign investment committee under the Ministry of Trade, Industry and Energy. In this regard, the first step is to consult with the investment related department of the relevant local autonomous government. After the local autonomous government publicly announces designation of the area as a foreign investment zone, the company can file an application for tax reduction or exemption to the Ministry of Strategy and Finance. Even if an area is designated as a stand-alone foreign investment zone, an application for tax reduction or exemption has to be filed and tax reduction/exemption needs to be granted.



Additional information

- **Procedure for designation as a foreign investment zone**
 - ① Negotiation (foreign investor & investment related department of relevant local autonomous government)
 - ② Decision to invest (foreign-invested company→Local autonomous government)
 - ③ Consultations & establishment of development plan (local autonomous government & Ministry of Trade, Industry & Energy)
 - ④ Request for designation as a foreign investment zone (local autonomous government→Ministry of Trade, Industry & Energy)

- ⑤ Feasibility study on designation as a foreign investment zone (Investment Attraction Division, Ministry of Trade, Industry and Energy)
 - ⑥ Deliberation by the working-level foreign investment committee (Headed by vice minister of trade, industry and energy)
 - ⑦ Approval by the foreign investment committee (headed by the minister of trade, industry and energy)
 - ⑧ Public announcement of designation (head of local autonomous government)
- **Documents to be submitted when applying for tax reduction or exemption as a stand-alone foreign investment zone**
 - ① Application form for tax reduction or exemption
 - ② Foreign investment notification in the form of acquisition of shares or contribution
 - ③ Documents certifying designation as a stand-alone foreign investment zone (e.g., public announcement of designation by the relevant local autonomous government)
 - ④ Documents certifying the category of the business (e.g. business plan)
 - ⑤ Documents certifying the installation of a new factory facility (e.g., permit for construction)
 - ⑥ Business registration certificate, foreign-invested company registration certificate, etc.
 - **For reference: Documents required to receive tax reduction or exemption as a complex-type foreign investment zone or free economic zone**
 - ① Application form for tax reduction or exemption
 - ② Foreign investment notification in the form of acquisition of stocks, etc. or contribution
 - ③ Documents certifying move-in into a complex-type foreign investment zone or free economic zone (residency contract, etc.)
 - ④ Documents certifying the category of the business (e.g. business plan)
 - ⑤ Documents certifying the installation of a new factory facility (e.g., permit for construction)
 - ⑥ Business registration certificate, foreign-invested company registration certificate, etc

66 | Reduction or exemption of registration and license tax for registering capital increase

Q

If a foreign-invested company receiving tax reduction or exemption increases capital, is the company eligible for reduction or exemption of registration and license tax for registering the capital increase?

A

Registration and license tax for registering a foreign-invested company's capital increase is not eligible for reduction or exemption.



Additional information

- If a foreign-invested company increases capital, registration and license tax shall be reduced or exempted in accordance with the regulations of Articles 121-2 and 121-3 of the Restriction of Special Taxation Act⁹⁰⁾.
- Reduction or exemption is granted for acquisition tax for properties acquired to operate a reported business (acquisition tax and registration tax for acquisitions have been merged)⁹¹⁾. Where a foreign-invested company increases capital, acquisition tax for the properties acquired with the increased capital to operate the reported business shall be reduced or exempted. For five years from the date on which a modified registration of capital increase was filed, 100 percent of the amount computed by multiplying the acquisition tax amount and the foreign investment ratio shall be reduced. For two years thereafter, 50 percent of the aforementioned amount shall be reduced.
- Registration and license tax for the registration of incorporation of a foreign-invested company and modified registration of capital increase shall not be reduced or exempted.

90) Article 121-4 (1) of the Restriction of Special Taxation Act

91) Article 121-2 (4) of the Restriction of Special Taxation Act

67 | Initial date in reckoning the period of tax reduction or exemption for capital increase

Q

If a foreign-invested company increases capital, what is the initial date in reckoning the period of tax reduction or exemption?

A

In principle, the initial date in reckoning the period for tax reduction or exemption shall be the first day of the taxable year in which income was first generated from a business subject to tax reduction or exemption. However, in the case that no income is accrued from the relevant business from the date of filing a modified registration of capital increase to the taxable year whereto belongs the day on which five years lapse from the date of registering the changes, the first day of the said taxable year shall be the initial date in reckoning the period of tax reduction or exemption for capital increase.



Additional information⁹²⁾

- Where a foreign-invested company increases capital, taxes shall be reduced or exempted in accordance with the regulations on new investment in Articles 121-2 and 121-3 of the Restriction of Special Taxation Act, and the business commencement date shall be the date on which a modified registration on capital increase was filed⁹³⁾.
- Therefore, the initial date in reckoning the period of tax reduction or exemption shall be the earlier between: the first day of the taxable year in which income was first generated from the business subject to tax reduction or exemption for the increased capital; and the first day of the taxable year whereto belongs the date on which five years elapse from the date of filing a modification registration of capital increase. The due date for applying for tax reduction or exemption shall be the last day of the taxable year in which a modification registration of capital increase was filed.

92) Article 121-4 of the Restriction of Special Taxation Act

93) Article 121-4 (1) and (3) of the Restriction of Special Taxation Act

- As for the stocks, etc. acquired by a foreign investor due to the capitalization of a reserve, a reserve for revaluation under Article 5 (2) 2 of the Foreign Investment Promotion Act or the reserves under other Acts or subordinate statutes; and the stocks acquired by investing the proceeds (limited to stocks, etc.) from the stocks acquired by a foreign investor in accordance with Article 5 (2) 5 of the Foreign Investment Promotion Act, the reduction or exemption shall be made during the remainder of their reduction or exemption period and by the ratio of reduction or exemption for the relevant remaining period, in conformity with the examples of reduction or exemption for the stocks, etc. which form a ground for such occurrences⁹⁴⁾.
- Where any foreign-capital invested company increases its capital within the scope of the reported foreign investment amount that is confirmed when the decision on the tax reduction or exemption is made prior to the date on which three years lapse from the date on which the first notice concerning the decision on the tax reduction or exemption is served after reporting the foreign investments, even if no application is filed for reducing or exempting the tax pursuant to the provisions of Article 121-2 (6) of the Restriction of Special Taxation Act, the foreign-invested company shall be deemed eligible for the decision on the tax reduction or exemption provided for in Article 121-2 (8) of the Act for the portion of the increased capital⁹⁵⁾.

94) Article 121-4 (2) of the Restriction of Special Taxation Act

95) Article 121-4 (5) of the Restriction of Special Taxation Act

68 | Initial date in reckoning the period of tax reduction and exemption where interest income is accrued before business commencement

Q

If a foreign-invested company earns interest income from depositing paid-in capital at a financial institute before commencement of a business eligible for tax reduction or exemption, should the date on which the interest income was accrued be considered the initial date in reckoning the period of tax reduction and exemption?

A

The interest income that a foreign-invested company earned by depositing paid-in capital at a financial institute before commencement of business is not considered income eligible for tax reduction or exemption. Therefore, the date on which the interest income was accrued shall not be the initial date in reckoning the period of tax reduction or exemption.



Additional information⁹⁶⁾

- The period for corporate tax reduction/exemption for foreign-invested companies shall start from the taxable year in which a foreign-invested company commenced a business eligible for tax reduction/exemption in accordance with Article 121-2 (2) of the Restriction of Special Taxation Act and accrued 'income' from the business for the first time (In the case that no income is accrued from the relevant business for five years from the date of business commencement, the taxable year where to belongs the date on which five years lapse from the date of commencing business shall be the initial year of corporate tax reduction/exemption.)
- Therefore, the interest income accrued by foreign-invested companies by depositing paid-in capital to a financial institute before commencement of business shall not be considered income eligible for tax reduction/exemption.

96) Ministry of Finance and Economy's administrative interpretation no. 2560, Dec. 8, 2004

- 'Income' in 'income accrued from the business for the first time' refers to the income in each business year defined by Article 14 of the Corporate Tax Act⁹⁷⁾.

69 | Effectiveness of decision to grant tax reduction when the foreign investor is changed

Q

... If a foreign-invested company in a foreign investment zone that was granted tax reduction or exemption transfers all its shares to another foreign company and the line of business, foreign investment ratio, etc. remain unchanged from the time when tax reduction or exemption was granted, does the foreign-invested company need to obtain a decision to grant tax reduction or exemption again?

A

... If a foreign-invested company transfers all of its shares held by a foreign investor to another foreign company and its line of business, foreign investment ratio, etc. remain unchanged from the time when tax reduction or exemption was granted, only the foreign investor is changed. In this case, the decision to grant tax reduction or exemption remains valid even if shares are transferred.



Additional information

- **Change of business contents for which tax reduction or exemption has been granted**⁹⁸⁾
 - Where a foreign-invested company changes the business contents for which tax reduction or exemption has been granted, an application for change of contents of tax reduction or exemption should be submitted to the Minister of Strategy and Finance.

97) National Tax Service International Taxation Bureau - 353, Aug. 10, 2010

98) Article 121-2 (6) of the Restriction of Special Taxation Act

- Due date for application for change: The date on which two years elapse from the day on which the cause for the relevant change occurred.
- Where a decision on change of the contents of tax reduction or exemption is made thereon, the content of relevant decision on change shall apply only to the remainder of the original reduction or exemption period.

70 | Tax reduction or exemption when business is partially transferred to a domestic company

Q

... If a foreign-invested company receiving tax reduction or exemption for operating a business involving new growth driver industry technology transfers part of its business to a domestic company, does the foreign-invested company maintain its qualification for tax reduction or exemption?

A

... Where a foreign investor transfers his/her stocks, etc. to a Korean national or corporation (hereafter 'Korean national, etc.),' it constitutes a reason for collection of reduced or exempted tax. However, if a foreign-invested company transfers its business subject to tax reduction or exemption to a Korean national etc., and the Minister of Strategy and Finance confirms that there is no problem with the company's manufacture of the product or provision of service in Korea from the business that accompanies the new growth driver industry technology, the reduced or exempted tax may not be collected. In this case, the transfer of business does not necessarily mean the comprehensive transfer of the business subject to tax reduction or exemption⁹⁹⁾.

99) Ministry of Strategy and Finance (Feb. 5, 2009)



Additional information

● Additional collection of reduced or exempted tax

– Additional collection of reduced or exempted corporate tax

* In the event that one of the following causes occur, a foreign-invested company that received corporate tax reduction or exemption should pay the reduced corporate tax and interest thereof * as corporate tax when filing a tax base return for the taxable year to which the date of such occurrence belongs¹⁰⁰⁾.

* Where any causes arise simultaneously, the cause due to which the amount of tax is greater shall be applied, and where they occur in succession, they shall be applied sequentially in the order of occurrence from the one which has first occurred up to the limit of the amount of tax reduced or exempted.

* Amount of interest thereof: The reduced or exempted tax amount X 3/10,000 X The period from the day after the due date for filing tax base return in the taxable year in which tax was reduced or exempted to the due date for filing tax base return in the taxable year in which the cause for additional collection of tax occurred.

- ① Where a registration is revoked in accordance with the Foreign Investment Promotion Act: The amount of tax reduced or exempted for five years retroactively from the date of revocation
- ② Where the foreign-invested company concerned closes its business: The amount of tax reduced or exempted for five years retroactively from the date of business closure
- ③ Where a company no longer satisfies the standards for tax reduction or exemption¹⁰¹⁾: The amount of tax reduced or exempted for five years retroactively from the date on which the standards are no longer met
- ④ Where a person, who has received a corrective order under Article 28 (5) of the Foreign Investment Promotion Act for failure to implement the reported particulars, fails to comply with the order: The amount of tax reduced or exempted for five years retroactively from the date on which the period for fulfilling the corrective order is expired

100) Article 121-5 (1) of the Restriction of Special Taxation Act and Article 116-7 (1) of the Enforcement Decree of the Act

101) The business requirements, minimum foreign investment amount, number of full-time employees, etc. to be satisfied to receive tax reduction or exemption under Article 116-2 (1), (3), (5), (6), (7), (9) and (10) and (16)-(21) of the Enforcement Decree of the Restriction of Special Taxation Act

- ⑤ Where a foreign investor transfers the stocks, etc. that he/she owns to a national or a corporation of the Republic of Korea: The amount of tax computed by multiplying: a) the amount of tax reduced or exempted for five years retroactively from the date of transfer of stocks, etc.; and b) the ratio of transferred stocks held by the foreign investor at the time of tax reduction or exemption
- ⑥ Where the payment for object of investments, acquisition of long-term loans or employment of workers by a foreign-invested company falls short of the requirements for tax reduction and exemption: The amount of tax reduced or exempted for five years (three years where the requirements for tax reduction and exemption relating to employment have not been met) retroactively from the day on which five years (three years where the requirements for tax reduction and exemption relating to employment have not been met) elapse from the foreign investment notification date.
- Additional collection of reduced or exempted local tax
 - * In the case that one of the following causes for additional collection occurs, the head of the local government concerned shall additionally collect acquisition tax and property tax that have been reduced or exempted, and the amount of additionally collected tax shall be as follows¹⁰²⁾.
 - * Where any causes arise simultaneously, the cause due to which the amount of tax is greater shall be applied, and where they occur in succession, they shall be applied sequentially in the order of occurrence from the one which has first occurred up to the limit of the amount of tax reduced or exempted¹⁰³⁾.
- ① Where registration is revoked in accordance with the Foreign Investment Promotion Act: The amount of tax reduced or exempted for five years retroactively from the date of cancellation
- ② Where the relevant foreign-invested company closes down its business: The amount of tax reduced or exempted for five years retroactively from the date of business closure
- ③ Where a foreign investor transfers the stocks, etc. that he/she owns to a national or corporation of the Republic of Korea: The amount of tax computed by multiplying: a) the amount of tax reduced or exempted for

102) Article 121-5 (3) of the Restriction of Special Taxation Act and Article 116-9 (1) of the Enforcement Decree of the Restriction of Special Taxation Act

103) Article 116-9 (2) of the Enforcement Decree of the Restriction of Special Taxation Act

five years retroactively from the date of transfer of stocks, etc.; and b) the ratio of transferred stocks held by the foreign investor

- ④ Where the actual amount of investment by a foreign-invested company within five years (three years for standards for tax reduction and exemption relating to employment) of the day a notification of foreign investment was filed falls short of the requirements for tax reduction and exemption: The amount of tax reduced or exempted for five years (three years where the standards for tax reduction and exemption relating to employment have not been met) retroactively from the day on which five years (three years where the requirements for tax reduction and exemption relating to employment have not been met) elapse from the foreign investment notification date
- ⑤ Where the ratio of stocks, etc. of foreign investors falls short of the ratio of the stocks, etc. at the time reduction or exemption was granted: The amount of tax computed by multiplying: a) the amount of tax reduced or exempted for five years retroactively from the date on which the ratio has fallen short; and b) the ratio of transferred stocks held by the foreign investor.

– Additional collection of reduced or exempted customs duty, etc.

* In the case that one of the following causes for additional collection occurs, the head of the relevant customs office or tax office shall additionally collect the relevant amount of reduced or exempted customs duty, individual consumption tax and value added tax¹⁰⁴⁾. Where customs duty is additionally collected for certain goods which were granted customs duty reduction or exemption, the amount of additionally collected customs duty can be reduced if such goods are change, damaged or used and their value has decreased¹⁰⁵⁾.

- ① Where registration is revoked in accordance with the Foreign Investment promotion Act: The amount of tax reduced or exempted for three years (five years in the case of individual consumption tax and value added tax) retroactively from the date of revocation
- ② Where the relevant foreign-invested company closes down its business: The amount of tax reduced or exempted for five years retroactively from the date of business closure

104) Article 121-5 (2) of the Restriction of Special Taxation Act and Article 116-8 (1) of the Enforcement Decree of the Act

105) Article 116-8 (2) of the Enforcement Decree of the Restriction of Special Taxation Act, Article 100 (2) of the Customs Act

- ③ Where a foreign investor transfers the stocks, etc. that he/she owns to a national or a corporation of the Republic of Korea: Where stocks, etc. are transferred within three years of the date on which customs duties, etc. are exempted, the amount of tax reduced or exempted for the capital goods exceeding the limit of the investment amount remaining after the transfer, etc. of the stocks, etc. (The additional collection shall begin with the tax amount reduced or exempted on the day closest to the date of the transfer of stocks.)
- ④ Where the actual amount of investment by a foreign-invested company within five years (three years for standards for tax reduction and exemption relating to employment) of the day a notification of foreign investment was filed falls short of the requirements for tax reduction and exemption: The amount of tax reduced or exempted for five years (three years where the standards for tax reduction and exemption relating to employment have not been met) retroactively from the day on which five years (three years where the requirements for tax reduction and exemption relating to employment have not been met) elapse from the foreign investment notification date

● **Exclusion from additional collection of reduced or exempted tax**

- ① Where a foreign-invested company is dissolved following a merger and the foreign-invested company's registration is revoked
- ② Where a foreign-invested company uses any capital goods it imported with no customs duties, etc., but they become unusable for their original purposes due to a natural disaster or other force majeure events, or depreciation, technological advancement, and other changes, and they are therefore used for purposes other than original ones or disposed of with approval from the Minister of Strategy and Finance
- ③ Where a foreign-invested company transfers its stocks, etc. to a Korean national or corporation to go public under the Financial Investment Services and Capital Markets Act
- ④ Where a foreign-invested company meets the relevant requirements for tax reduction or exemption by delivering the object of investment within the performance period extended by the relevant Mayor/Do Governor under the Foreign Investment Promotion Act
- ⑤ Where the purpose of tax reduction or exemption is deemed achieved ¹⁰⁶⁾

106) Article 116-10 (2) of the Enforcement Decree of the Restriction of Special Taxation Act

71 | Period for which customs duties for capital goods are exempted

Q

For how long are customs duties exempted for capital goods imported by foreign-invested companies eligible for tax reduction or exemption?

A

Customs duties are exempted for capital goods for which import declaration has been completed for five years from the date of foreign investment notification.



Additional information

- **Capital goods**¹⁰⁷⁾
 - Machinery, apparatus, facilities, equipment, parts, accessories as industrial facilities (including vessels, motor vehicles, aircraft, etc.)
 - Livestock, breeds or seeds, trees, fish and shellfish which are necessary for the development of agriculture, forestry, and fisheries
 - Raw materials and reserve supply deemed necessary by the competent minister (referring to the head of the central administrative agency in control of the project concerned) for the initial test (including pilot projects) of the facilities concerned, and the fees for transportation and insurance required for the introduction thereof and other know-how or service necessary therefor
- **Capital goods exempted from customs duties, etc. (customs duties, individual consumption tax or value added tax)**¹⁰⁸⁾
 - Of the following capital goods used for businesses eligible for tax reduction or exemption set forth in Article 121-2 of the Restriction of Special Taxation Act, those which are imported in accordance with foreign investment in the form of acquisition of new shares, etc., and for which import declaration has been completed for five years from the date of foreign investment notification (six years where import declaration could

107) Article 2 (1) 9 of the Foreign Investment Promotion Act

108) Article 121-3 (1), (2) of the Restriction of Special Taxation Act

not be completed due to an inevitable cause and the Minister of Strategy and Finance's approval has been obtained) are eligible for tax reduction or exemption.

* Capital goods that are: 1) introduced by a foreign-invested company with a foreign or domestic means of payment it has obtained as equity investment from a foreign investor; or 2) introduced by a foreign investor as an object of investment under Article 2 (1) 8 of the Foreign Investment Promotion Act.

- **Documents required when applying for exemption of customs duties, etc.¹⁰⁹⁾**
 - Application for customs duties, individual consumption tax and value-added tax, etc. (a copy of certification of tax reduction or exemption decision)
 - Documents certifying that the capital goods are imported with cash invested by a foreign investor (a copy of the foreign investment notification certificate, a copy of the certificate of foreign currency purchase, etc.)
 - Confirmation certificate of the specification of the imported capital goods
- **Application procedure for exemption of customs duties, etc.**
 1. Decision to grant tax reduction or exemption: A foreign-invested company should file an application for tax reduction or exemption to the Ministry of Strategy and Finance and receive confirmation that the business that the company operates is eligible for tax reduction or exemption under Article 121-2 of the Restriction of Special Taxation Act.
 2. Confirmation of the specification of imported capital goods: A specification of imported capital goods should be prepared and confirmed by a delegated agency (i.e., a foreign exchange bank or KOTRA)¹¹⁰⁾.
 3. Application for reduction or exemption of customs duties: An application should be filed to the head of a customs office before the capital goods import declaration is accepted¹¹¹⁾.

109) Article 51-3 of the Enforcement Rules of the Restriction of Special Taxation Act

110) Article 38 (2) and 40 (3) of the Enforcement Decree of the Foreign Investment Promotion Act

111) Article 112 (1) of the Enforcement Decree of the Customs Act

Foreign Investment Zones

72 | Installment of new business facilities to qualify for designation as a foreign investment zone

Q

If a foreign-invested company acquires a factory, disassembles the existing facilities and newly installs manufacturing facilities to manufacture new products, can this be recognized as installment of new factory facilities, making the company eligible for designation as a Foreign Investment Zone? The foreign investment amount is USD 50 million and the company is operating a manufacturing business.

A

In principle, yes. However, the Foreign Investment Committee's recognition is required.



Additional information

- Installment of new facilities/ new factory facilities refers to the following¹¹²⁾:
 - When factory facilities (referring to a workplace in case of any business other than a manufacturing industry on the Korean Standard Industrial Classification) are newly constructed, or a machine/ facility equipment is newly installed in the factory building
 - When a company installs factory facilities or machine/facility equipment that can be account for separately from its existing factory facilities
 - When acquiring a business whose construction has not been completed and carrying out business operations in the building after gaining approval for the use of the building in accordance with the Building Act¹¹³⁾ (The Foreign Investment Committee may not recognize this as installment of new facilities/new factory facilities depending on the progress of the building construction.)

112) Article 23 (3) of the Foreign Investment Zone Operation Guideline

113) Article 18 of the Building Act

73 | Requirements for a domestic company to move into a foreign investment zone

Q ... Can a domestic company move into a foreign investment zone?

A ... Yes. A tenant company of a foreign investment zone with foreign investment ratio of 30 percent or higher may allow its domestic supplier to use part of its factory in order to save costs and to shorten the manufacturing process, after gaining the approval of the Minister of Trade, Industry and Energy.



Additional information

- On receiving a tenant company's (companies with foreign investment ratio of 30 percent or higher) request to allow its domestic supplier to use part of the company's factory facilities for the purpose of cutting costs and shortening the manufacturing process, the managing authority of the Foreign Investment Zone may grant permission after a review by the Evaluation Committee and obtaining the consent of the Minister of Trade, Industry and Energy¹¹⁴⁾ in accordance with the provisions of the Foreign Investment Operation Guideline¹¹⁵⁾.
- At the request of the tenant company, the managing authority may sign a move-in contract with the tenant company's domestic supplier within the tenant company's remaining lease period, and the contract should be renewed every five years.
- The total land area permitted to be occupied by the supplier shall not exceed 30 percent of the total factory area, and rent shall be applied to the supplier in proportion to the area it occupies within the total factory area.
- Where a supplier moves in, the rent imposed shall be as prescribed by Article 17 (3) of the Guideline (5% or more)¹¹⁶⁾.

114) Article 22 of the Foreign Investment Operation Guideline

115) Article 16 (4) of the Foreign Investment Operation Guideline

116) Article 22 (4) of the Foreign Investment Operation Guideline

- The evaluation Committee shall consist of 10 experts or less and shall be operated by the managing authority.

74 | Businesses eligible to move into a complex-type foreign investment zone

Q

Are there special restrictions on businesses eligible to move into a complex-type foreign investment zone?

A

Yes.



Additional information

- **Businesses eligible to move into complex-type foreign investment zones¹¹⁶⁾**
 - Businesses eligible to move into a complex-type foreign investment zone are as follows. The businesses permitted in each zone shall be determined by the basic management plan¹¹⁷⁾.
 - * Businesses accompanying new growth driver industry technology under the Foreign Investment Promotion Act
 - * Businesses that involve high technology or manufacture high-tech products as prescribed by Article 5 of the Industrial Development Act
 - * Other businesses determined by the managing authority considering the industrial characteristics of the relevant zone
 - * Research institutes affiliated with enterprises under Article 2 Subparagraph 3 Item c of the Special Act on Support of Scientists and Engineers for Strengthening National Science and Technology Competitiveness and research and development businesses under Article 2 (4) of the same Act
 - * Businesses under Article 25 (1) 3 (a) and (b) of the Enforcement Decree of the Foreign Investment Promotion Act (complex logistics terminal business and business creating and operating a joint collection and delivery complex)

75 | Upper limit on the size of land that can be leased in complex-type foreign investment zones

Q

A foreign investor plans to invest USD 50 million to establish a foreign-invested company in a complex-type foreign investment zone. Is there an upper limit on the size of land that can be leased in the zone?

A

Yes¹¹⁹⁾.



Additional information

● Upper limit on the size of land to be leased

- The area of a factory building to be occupied by a tenant company shall be the site area calculated by applying the standard factory area ratio by type of manufacturing business publicly announced based on Article 8 Subparagraph 2 of the Industrial Cluster Development and Factory Establishment Act (as for a type of business whose area ratio is 12 percent or less, 12 percent shall be applied as the area ratio). Where a tenant company hopes to occupy an area of a factory building less than the area calculated by the method above, occupancy may be granted based on the site area calculated according to the same provision.
- The upper limit on the size of the area that can be leased by a company in a complex-type investment zone shall be determined by the Basic Management Plan, taking into consideration the characteristics of each complex. The upper limit shall be equal to or below the size of the area that is valued at 100 percent of the tenant company's foreign investment amount.
- The managing authority shall calculate the proper size of the area to be leased by a tenant company when examining an occupancy contract so that land in excess of the proper size is not leased.

119) Article 15 of the Foreign Investment Zone Operation Guideline

76 | Change of publicly notified matters regarding a foreign investment zone

Q ... A foreign-invested company in a stand-alone type foreign investment zone received designation as a stand-alone type foreign investment zone after a foreign investor pledged to invest USD 100 million for operation of a building materials manufacturing business. However, due to unforeseen circumstances, the investment amount was reduced to USD 50 million. What procedure should the company go through?

A ... Where the amount of foreign investment is reduced in excess of 30/100 of the originally pledged amount, this constitutes a serious change instead of a minor change. Therefore, the foreign-invested company and the local government concerned should submit a new business plan that has been altered after a negotiation with the Minister of Trade, Industry and Energy and receive the Foreign Investment Committee's deliberation (including change in foreign investment notification matters). Afterwards, the mayor of Si/Do should publicly notify change of designation of foreign investment zone and the foreign-invested company should notify change in tax reduction/exemption to the Minister of Strategy and Finance by attaching the contents of the publicly notified change.



Additional information

- **Alteration of public notification regarding foreign investment zones** ¹²⁰⁾
 - Where a mayor of Si/Do intends to alter any matter publicly notified, he/she shall submit such matter to the Foreign Investment Committee for deliberation. However, this shall not apply to minor alterations.
 - Minor alterations
 - * Change in the area of a foreign investment zone (referring to changes within 30/100 of the original area)

¹²⁰⁾ Article 18 (1) of the Foreign Investment Promotion Act, Article 15 (13) of its Enforcement Decree

- * Increase in the foreign investment amount or decrease of 30/100 or more (where the requirements for designation as a foreign investment zone are satisfied after the change)
- * Change in foreign-invested company's employment scale
- * Change in major targeted businesses (applies only to stand-alone type foreign investment zones)
- * Change in foreign-invested company's business (applies only to stand-alone type foreign investment zones)
- * Other matters as prescribed by the Foreign Investment Committee
- * Where the mayor of Si/Do intends to make a minor alteration, he/she should negotiate with the Minister of Trade, Industry & Energy in advance.

77 | Designation of two or more foreign-invested companies as a foreign investment zone

Q

U.S. investor A invested USD 15 million to establish foreign-invested company AK and Japanese investor J also invested USD 15 million to establish foreign-invested company JK. Both AK and JK were established to operate a manufacturing business. In this case, can the two business zones be combined into a single stand-alone foreign investment zone?

A

Yes. In the case of manufacturing businesses, investment of USD 30 million or more per foreign-invested company is required to be designated as a stand-alone type foreign investment zone. However, provided that certain conditions are met, two or more foreign-invested companies can combine their foreign-invested amounts and qualify for designation as a stand-alone type foreign investment zone.



Additional information

- **Designation as a stand-alone foreign investment zone by two or more foreign investors**¹²¹⁾
 - The sum of investments by two or more foreign investors should be more than the foreign investment amount required for stand-alone type foreign investment zones and satisfy the following conditions (However, where two or more foreign investors invest in two or more businesses, the higher foreign investment amount requirement shall apply):
 - * The line of business that is run should be one that is eligible for designation as a standalone-type foreign investment zone
 - * The facilities should be installed in areas that are adjacent to each other
 - ‘Two or more foreign investors’ vs. ‘Two or more foreign-invested companies’
 - * The Foreign Investment Promotion Act says “Two or more foreign investors” but this expression is wrong because ‘foreign investor’ and ‘foreign-invested company’ should be defined differently. “Two or more foreign investors” should be corrected into “Two or more foreign-invested companies”
 - * In other words, where there are multiple foreign-invested companies instead of multiple investors to a single foreign-invested company, designation as a stand-alone type foreign investment zone is not permitted. However, if the sum of the investments received by multiple foreign-invested companies is or more than a certain amount, designation as a foreign investment zone is permitted. In the Restriction of Special Taxation Act, which determines matters related to tax reduction or exemption, it is correctly expressed as “Two or more foreign-invested companies”
 - Requirements for tax reduction or exemption where two or more foreign-invested companies move into a foreign investment zone (stand-alone type)
 - * The sum of foreign investment should be USD 30 million or more.
 - * The facilities needed for operating a business designated as a stand-alone type foreign investment zone are newly installed.

¹²¹⁾ Article 18 (2) of the Foreign Investment Promotion Act, Article 25 (5) of its Enforcement Decree

78 | Expenses for purchasing land in an industrial complex for designation as a complex-type foreign investment zone

Q

When purchasing land in an industrial complex for designation as a complex-type foreign investment zone, which side bears the purchasing expense?

A

The purchasing expenses are jointly borne by the central government and local autonomous body. The ratio at which the expenses are shared shall be as prescribed by the government's criteria for funding local autonomous bodies' foreign investment attraction activities.



Additional information

- Purchase of land for use as a foreign investment zone and registration of land¹²²⁾
 - Ratio of government funding for the purchase of land for lease to foreign-invested companies¹²³⁾

Year	2011	2012	2013	2014~
Seoul metropolitan area	40/100	35/100	35/100	40/100
Other areas	75/100	75/100	65/100	60/100

[Example]

Songsan no.2 small and medium-sized complex-type foreign investment zone (Oct. 4, 2015)

- Location: Songsan no.2 industrial complex (area 2-2) located in Gagok-ri, Donggok-ri, Yugok-ri in Songsan-myeon and Godae-ri in Songak-eup
- Area: 134,023m²

122) Article 33 of the Guidelines for Operating a Foreign Investment Zone

123) Article 6 for the criteria for funding local autonomous bodies' foreign investment attraction activities

- Fund5s for purchasing area for lease: KRW 46.6 billion (the land price is paid in installments after signing of the contract)
 - * Funding by the central government: KRW 28 billion (60%)
 - * Funding by the local government: KRW 18.6 billion (40%) ⇨ KRW 9.3 billion each by Chungcheongnam-do and Dangjin-si

※ Land price: KRW 347,710/m²

79 | Designation as a complex-type foreign investment zone and explicit demand for move-in

Q

For an area outside the Seoul metropolitan area to be designated as a foreign investment zone, the explicit demand for move-in should be at least 50/100 of the site area. What does 'explicit demand for move-in' mean?

A

Explicit demand for move-in means demand for move-in for which foreign investment notification was completed and move-in demand was expressed through the signing of an MOU.



Additional information

- Requirements for designation as a complex-type foreign investment zone
 - Basic principle: When designating a complex-type foreign investment zone, equal regional development of cities and provinces should be considered.

– Requirements for new designation

	Requirements for designation	
	Seoul metropolitan area (Seoul, Incheon, Gyeonggi-do)	Other areas
Readiness for move-in	The site has to be ready for move-in	Same as left
Demand for move-in	The move-in demand for which investment notification has been completed should cover at least 60/100 of the site area.	The explicit move-in demand should be at least 50/100 of the site area. However, the move-in demand for which foreign investment notification has been completed should be at least 30/100 of the site area.
Minimum size of designation	80,000m ²	Same as left

* Explicit move-in demand: Move-in demand for which foreign investment notification has been completed + MOU signings

※ The signing of an MOU is not explicitly defined as explicit move-in demand, but it is in reality recognized as so. This is to ease the requirements for designation in areas outside the Seoul metropolitan area because signing an MOU with a foreign investor is deemed easier than receiving an investment notification from a foreign investor.

80 | A complex-type foreign investment zone tenant company's tenancy agreement period

Q

When a foreign-invested company moves into a complex-type foreign investment zone, can it actually sign a long-term tenancy agreement of 50 years with the management agency of the zone?

A

The foreign investment zone management agency can sign a tenancy contract with its tenant companies lasting up to 50 years. However, in this case, the contract has to be renewed every 10 years.



Additional information

● Lease of complex-type foreign investment zone¹²⁴⁾

- A management agency may conclude a tenancy contract with a tenant company moving in to a lease complex within the scope of a total of fifty years. In this case, a renewal contract shall be concluded every ten years; and the amount of foreign investment and area of factory building in the contents of the renewal contract mean the amount and area at the time of making the initial contract, respectively.
- A tenant company intending to make a renewal contract shall request for the conclusion of a renewal contract no later than three months prior to the expiration of the tenancy contract. The management agency shall then examine whether the tenant company has completed the business plan and conclude a renewal contract with the company except in case of any special reason not to do so.
- A tenant company shall neither use the land for purposes other than those prescribed in the contract for occupancy nor perform any act of disposal such as sale, lease, exchange, etc., of buildings without the written approval of the management agency.

A management agency may perform each of the following acts with the approval of the Minister of Trade, Industry and Energy requested by a tenant company:

124) Article 16 of the Foreign Investment Zone Operation Guideline

- * All kinds of changes to the right, such as sublease or transfer of leased land
- * Changes to the form and nature, etc., of the leased land

Free Economic Zones

81 | Service businesses eligible for tax reduction/exemption in a free economic zone

Q

Is a foreign-invested company operating a service business such as an engineering business within a free economic zone eligible to apply for tax reduction or exemption?

A

A foreign-invested company is eligible for tax reduction or exemption as long as the foreign investment amount is USD 10 million or more and the company establishes a new facility to operate a service business.



Additional information

- **Service businesses eligible to apply for tax reduction/exemption within a free economic zone**
 - A company operating the following businesses can apply for tax reduction/exemption, provided that the company's foreign investment amount is USD 10 million or more and the company establishes a new facility within a free economic zone (businesses additionally added to the list of businesses eligible for application for tax reduction/exemption on Feb. 2, 2012).
 - * Engineering business
 - * Telecommunications business
 - * Computer programming and system integration and management
 - * Information service business
 - * Other science technology service business
 - * Movie, video and broadcasting program production businesses; movie, video and broadcasting program production service businesses; recording facility operating business; music and other audio publication business

- * Game software development and supply business
- * Performance facility operating business, performance group, other creative and art related services

82 | Seven-year tax reduction/exemption for tenant companies within a free economic zone

Q ...

A foreign investor has invested USD 30 million to manufacture pharmaceuticals in a free economic zone, thus qualifying for corporate tax reduction for five years. Can this foreign-invested company apply for designation as a stand-alone type foreign investment zone to extend the period of corporate tax reduction?

A ...

The company can receive the same tax incentives as companies designated as a stand-alone foreign investment zone. Tenant companies within a free economic zone are eligible to receive corporate tax reduction for five years. However, a company making a large-scale investment that qualifies the company for designation as a stand-alone type foreign investment zone within a free economic zone may be treated the same as tenant companies in a stand-alone type foreign investment zone and receive corporate tax reduction for seven years after acquiring the approval of the Free Economic Zone Committee.



Additional information

- **Incentives for foreign-invested companies making large-scale investments in a free economic zone¹²⁵⁾**
 - A foreign-invested company in a free economic zone¹²⁶⁾ is eligible to receive the same tax incentives as a company in a stand-alone type foreign investment zone, provided that the company meets the investment

125) Article 116-2 (19) of the Enforcement Decree of the Restriction of Special Taxation Act

126) Article 2, Subparagraph 1 of the Special Act on Designation and Management of Free Economic Zones

requirements for designation as a stand-alone type foreign investment zone and acquires the approval of the Free Economic Zone Committee¹²⁷⁾.

● **Application for tax incentives**¹²⁸⁾

- Application to be submitted by: Foreign investor or foreign-invested company
- Application to be submitted to: Ministry of Strategy and Finance
- Request for free economic zone's deliberation and approval: When a foreign investor or foreign-invested company has submitted an application for tax reduction or exemption to the Minister of Strategy and Finance and it is deemed that the foreign investor or foreign-invested company is eligible for tax reduction or exemption, the Minister of Strategy and Finance may request the Minister of Trade, Industry and Energy to have the Free Economic Zone decide on whether to grant tax reduction/exemption.

83 | Conditions for opening a foreign-only casino in a free economic zone

Q

The regulations for opening a foreigner-only casino in a free economic zone have been eased in 2012. What are the details?

A

Originally, when seeking permission to open a casino, it was required to submit documents evidencing the establishment of incidental business facilities (i.e. 5-star hotel or international conference facility). However, with the amendment of related laws on Sep. 21, 2012, an application for advance ruling can be made before investing in hotels, etc. if 10/100 or more of the minimum investment amount of USD 500 million has been paid up.

127) Article 25 of the Special Act on Designation and Management of Free Economic Zones

128) Article 5 of the Regulations on 7-Year Tax Reduction and Exemption within a Free Economic Zone

84 | Establishment of a foreign educational facility within a free economic zone

Q ... Are foreigners permitted to establish a foreign educational institution within a free economic zone?

A ... Permitted under the condition that the institution is not operated for profit.



Additional information

- Notwithstanding Article 3 of the Private School Act, a foreign education foundation may establish a foreign educational institute in a free economic zone after acquiring the approval of the Minister of Education¹²⁹⁾. The term 'foreign education foundation' refers to the state government, a local government or a non-profit juristic person who establishes and manages a preschool/elementary/secondary/higher education institution under the provisions of foreign legislation in a foreign country¹³⁰⁾. In this regard, if a foreign investor is a for-profit foundation, it is not permitted to establish a foreign educational institution in a free economic zone.
- **Procedure for establishing a foreign educational facility**¹³¹⁾
 - A person who intends to establish a foreign educational institute shall file an application for approval to the Ministry of Education at least 12 months before the scheduled school opening date.
 - The Minister of Education shall approve the application after a deliberation by the Deliberation Committee for Establishment of Foreign Educational Institutions and a deliberation and resolution by the Free Economic Zone Committee¹³²⁾.

129) Article 22 (1) of the Special Act on Designation and Management of Free Economic Zones

130) Article 2, Subparagraph 1 of the Special Act on Establishment and Management of Foreign Education Institutions in Free Economic Zones and Jeju Free International City

131) Article 3 of the Enforcement Decree of the Special Act on Establishment and Management of Foreign Education Institutions in Free Economic Zones and Jeju Free International City

132) Article 3 (2) of the Enforcement Decree of the Special Act on Establishment and Management of Foreign Education Institutions in Free Economic Zones and Jeju Free International City, Article 22 (2) of the Special Act on Designation and Management of Free Trade Zones

- The Minister of Education should inform the applicant of the decision to grant approval at least six months before the scheduled school opening date.

85 | Establishment of a medical institution within a free economic zone

Q

Is a foreigner permitted to establish a for-profit medical institution within a free economic zone?

A

Yes, if certain conditions are met.



Additional information

- Notwithstanding the regulations of the Medical Service Act¹³³⁾, a foreigner, or a company under the Commercial Act established by a foreigner for the purpose of operating a medical service business qualifying the following conditions can establish a medical institution (foreign medical institution) in a free economic zone after obtaining the approval of the Minister of Health and Welfare¹³⁴⁾.
 - 1) The medical institution is located within a free economic zone
 - 2) The foreign investment ratio¹³⁵⁾ is no less than 50 percent
 - 3) The amount of capital is no less than KRW 5 billion
 - 4) A cooperative system is established, such as the conclusion of a management treaty with a medical institution established and operated in accordance with foreign Acts
 - 5) A foreign medical institution established with the following medical departments has one or more foreign doctor's license holders: department of internal medicine, department of neurology, department of surgery, department of orthopedics, department of neurosurgery, department of chest surgery, department of plastic surgery, department of ob/gyn,

133) Article 33 (2) of the Medical Service Act

134) Article 23 (1) of the Special Act on Designation and Management of Free Economic Zones and Article 20-2 of the Enforcement Decree of the Act

135) Article 5 (1) of the Foreign Investment Promotion Act

department of pediatrics, department of ophthalmology, department of otorhinolaryngology, department of dermatology, department of urology, department of physical and rehabilitation medicine, department of tuberculosis control, department of family medicine¹³⁶⁾

- The type of medical institution shall be a general hospital, hospital, dental hospital or convalescent hospital under Article 3 (2) 3 of the Medical Service Act.
- Foreign medical institutions or foreigner-only pharmacies are considered medical institutions or pharmacies established under the Medical Service Act or the Pharmaceutical Affairs Act. However, they shall not be considered medical care institutions under the National Health Insurance Act. Therefore, the national health insurance program shall not be applied to foreign medical institutions or foreigner-only pharmacies.
- Foreign medical institutions are permitted to operate a rest hot spring¹³⁷⁾, a public bath business¹³⁸⁾, a tourist accommodation business, a tourist-use facility business or an international conference business¹³⁹⁾ as an affiliated business within a free economic zone¹⁴⁰⁾.

136) Article 5 of the Rules on the Procedure for Obtaining Permission to Establish a Foreign Medical Institute in a Free Economic Zone

137) Article 9 of the Hot Spring Act

138) Article 2 (1) 3 of the Public Health Control Act

139) Article 3 (1) 2, 3, 4 of the Tourism Promotion Act

140) Article 23 (2) of the Special Act on Designation and Management of Free Economic Zones and Article 20-3 of the Enforcement Decree of the Act

86 | Establishment of a foreign medical institution in Jeju Special Self-Governing Province

Q ... Is it possible to establish a foreign medical institution in Jeju Special Self-Governing Province?

A ... Yes, if certain conditions are met.



Additional information

- Notwithstanding the regulations of the Medical Service Act¹⁴¹⁾, a company established by a foreigner¹⁴²⁾ which meets the following conditions can establish a medical institution (foreign medical institution) in Jeju Special Self-Governing Province after acquiring the approval of the Governor of Jeju¹⁴³⁾
 1. The foreign investment ratio is no less than 50%.
 2. The amount to be invested in the establishment of the foreign medical institution is no less than USD 5 million.
 3. The company types are limited to stock company and limited company in accordance with the conditions for establishing a commercial company¹⁴⁴⁾.
- The type of medical institution shall be a general hospital, hospital, dental hospital or convalescent hospital under Article 3 (2) 3 of the Medical Service Act
- Foreign medical institutions or foreigner-only pharmacies are considered medical institutions or pharmacies established under the Medical Service Act or the Pharmaceutical Affairs Act. However, they shall not be considered medical care institutions under the National Health Insurance Act¹⁴⁵⁾.

141) Article 33 (2) of the medical Service Act

142) Article 2 (1) 1 of the Foreign Investment Promotion Act

143) Article 192 (1) of the Special Act on the Establishment of Jeju Special Self-Governing Province and the Development of Free International City

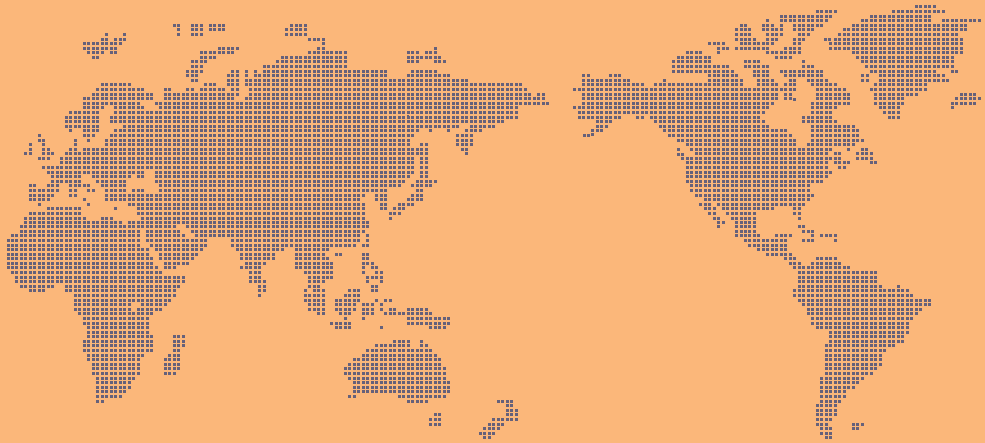
144) Article 14 of the Ordinance on Exceptions Concerning Medical Services in Jeju Special Self-Governing Province

Therefore, the national health insurance program shall not be applied to foreign medical institutions or foreigner-only pharmacies.

145) Article 192 (4) of the Special Act on the Establishment of jeju Self-Governing Province and the Development of Free International City

Q&A

on FDI in Korea



III. Incentives for Foreign Investment

Labor

Acquisition of Land

Tax, Accounting

General

87 | Social insurance

Q

What are the types of social insurance an employer must provide employees?

A

A company employing more than one employee should offer national pension, health insurance, employment insurance and industrial accident compensation insurance.



Additional information

- The employer should make monthly contributions to the four types of insurance as follows. Employees; contributions shall be deducted from their wages.
 - National pension: Standard monthly income¹⁴⁶⁾ X 9% (Employer's contribution: 4.5%)
 - Health insurance: Monthly wage¹⁴⁷⁾ X 6.07% (Employer's contribution: 3.035%)
 - Employment insurance: Average monthly wage¹⁴⁸⁾ X 1.3% (Employer's contribution: 0.65%). The employer shall make additional contributions for employment security and vocational skill development programs, with an insurance premium rate of 0.25% for businesses employing less than 150 employees¹⁴⁹⁾.
 - Industrial accident compensation insurance: Average monthly wage X 0.0007-0.34 (contribution rate differs by business sector).

146) Standard monthly income: [monthly wage X 12 months/365 days (366 days) X 30 days]

147) Monthly wage: Earned income that is taxable under the Income Tax Act

148) An individual employee's average monthly wage for a taxable year is calculated based on the aggregate wage of the previous year.

149) Premium rate for employment security and vocational skill development programs: 0.25% for businesses with less than 150 employees; 0.65% for businesses with 150-999 employees; 0.85% for businesses with 1,000 employees or more

88 | Statutory working hours

Q ... What are the statutory working hours in Korea?

A ... According to the Labor Standards Act, the statutory hours of work is eight hours a day and 40 days a week.



Additional information

- As of April 2018, the 40-hours-per-week policy applies to workplaces with five or more workers. Working hours per day shall not exceed eight hours excluding recess hours and working hours per week shall not exceed 40 hours. In the case of a workplace with less than five workers, the provision about working hours and holidays stipulated in the Labor Standards Act are not applicable, which leaves it not bound by the obligation to implement a 40-hours-per-week policy in principle.
- **Extended work hours permissible by law**
 Extended work is allowed up to 12 hours per week under an agreement between the employer and the employee. However, in the case of the types of work listed below, extended working hours may exceed 112 hours per week through a written agreement reached with the representative of the workers.
 - Land transportation (excluding route passenger transport business under the Passenger Transport Service Act)
 - Water transportation
 - Air transportation
 - Other transportation related service business
 - Health business

89 | Extended work wages

Q ... How much should a worker be additionally paid for extended work?

A ... In the case of extended work exceeding the statutory working hours, workers should be paid an additional 50 percent of the ordinary wages¹⁵⁰.



Additional information

As for night work (10 p.m. to 6 a.m.) and holiday work, workers should be paid their original wages plus an additional 50 percent of their ordinary wages. When the work applies to two or three of the following types of work – night work, extended work or holiday work – workers should be additionally paid for each type of work.

90 | Minimum wage

Q ... What is the minimum wage in 2019?

A ... The minimum wage that applies from Jan. 1, 2019 to Dec. 31, 2019 is as follows:

- Hourly wage: KRW 8,350
- Daily wage: KRW 66,800 (based on eight hour workday)
- Monthly wage: KRW 1,745,150 (based on 40 hour workweek)

¹⁵⁰⁾ The term 'ordinary wages' means hourly wages, daily wages, weekly wages, monthly wages, or contract wages which are determined to be paid periodically or in lump sum to a worker for his/her prescribed work or whole work (Article 6 (1), Enforcement Decree of the Labor Standards Act)



Additional information

- **Starting annual salary for new university graduates in 2018**
 - According to JobKorea's survey on 396 out of 500 top Korean companies the average starting annual salary for new university graduates in 2018 was KRW 40.6 million.

91 | Retirement allowance

Q

Should an employer pay retirement allowance to a retiring employee?

A

An employer should provide a retiring employee with 30 days' average wage¹⁵¹⁾ for every year of consecutive service. As there is no limit on the qualifying reasons for retirement, the retirement pay shall be given in any case when the employment contract is terminated due to the employee's resignation or death, arrival of the retirement age or the company's extinction.



Additional information

- **Retirement benefit scheme**
 - With the introduction of the Employee Retirement Benefit Security Act on Dec. 1, 2005, all employers are required to adopt either retirement pension¹⁵²⁾ or a retirement pay scheme. If any employer intends to decide on a type of retirement benefit scheme, the employer shall, if a majority trade union exists at the business concerned, obtain the consent of a majority of workers.

151) Average wage: The amount calculated by dividing the total amount of wage paid to a relevant worker during three months immediately before the day on which a cause for calculating his/her average wage occurred by the total number of days during those three months.

152) Under the retirement pension scheme, retirement allowance funds are managed by a financial company and retirement benefits are paid either in installments or lump-sum at the time of retirement.

92 | Statutory holidays

Q ... What are the statutory holidays for employees?

A ... Under the Labor Standards Act, the statutory holidays are weekly holidays and Labor Day (May 1). However, starting from 2020, public holidays should be paid holidays as well.



Additional information

● Weekly holidays

- An employer shall grant a weekly holiday with pay at least once a week on average, provided that the employee concerned has worked all of the contractual working days (as determined in the rules of employment, etc.) for the preceding week. An employee who has worked on a weekly holiday shall be paid an additional 50 percent of the ordinary wage rate for the hours worked.

● Contractual holidays

- Contractual holidays refers to holidays other than the statutory holidays provided by the employer specified in a collective agreement or rules of employment. Examples are company foundation day or public holidays. Whether the additional holidays will be paid or unpaid will be determined by an agreement between the employer and employees.
- Under the Labor Standards Act amended on March 20, 2018, the public holidays as prescribed by the Regulations on Holidays of Government Offices should be applied to employees starting from 2020 and onwards. However, the initial applicable date shall differ depending on the size of the company as follows:
 - * Business establishments employing 300 employees or more: Jan. 1, 2020
 - * Business establishments employing 30 or more employees but less than 300 employees: Jan. 1, 2021
 - * Business establishments employing five or more employees but less than 30 employees: Jan. 1, 2022

93 | Annual leave with pay

Q ... How many days are designated as annual leave with pay by law?

A ... An employer shall grant 15 days of annual leave with pay to an employee who has recorded 80 percent or higher in attendance.



Additional information

- **Employees who have worked less than one year**

An employer shall grant one day of annual leave with pay per month of full attendance to his/her employees who have worked continuously for less than one year or attended less than 80 percent of a year (effective May 29, 2018).

- **Addition of days of annual leave with pay**

For an employee who has worked for three years or longer, the employer shall grant 16 days of annual leave with pay from the fourth year, and an additional one day shall be granted every two years following the fourth year. The total number of annual leave days shall be limited to 25 days.

94 | Rules of employment

Q ... How many people should be employed at a business for an employer to prepare a rules of employment?

A ... An employer that employs ten or more employees must have a rules of employment.



Additional information

● Modification of the rules of employment

- The rules of employment are regulations on working conditions or rules that are prepared by the employer and applied to all employees.
- To prepare or modify the rules of employment, the employer shall hear the opinion of a majority trade union, or, if there exists no such union, the opinion of the majority of the employees. If an employer wishes to modify the rules of employment to the disadvantage of his/her employees, the employer shall obtain consent.
- When an employer notifies the local labor office of the rules of employment, he/she shall attach a document containing the above opinion or consent and bearing the signatures of employees.

95 | Labor-management council

Q

How many people should be employed at a business for the establishment of a labor-management council?

A

The labor-management council shall be established at a business employing 30 persons or more.



Additional information

● Establishment of a labor-management council

- The labor-management council shall be composed of 3-10 members each from the employee side and employer side, and shall meet every three months¹⁵³⁾.

153) Agenda items for labor-management council

- Matters for consultation: Employment, dispatch and training of workers, working hours and recess hours, introduction of new machinery or technology, improvement of work processes, establishment or modification of work rules
- Matters for resolution: Establishment of basic plan for employee training and skills development, establishment and management of employee welfare facilities, establishment of company welfare fund, establishment of labor-management committees
- Matters for reporting: Overall business plan and performance, quarterly production plan and performance, personnel policy, company's financial state

- The members from the employer side shall be comprised of the representative of the business and those appointed by the representative. The members from the employee side shall include those elected in a direct and secret vote. If there exists a majority trade union, the members shall be the representative of the trade union and those appointed by the union.

96 | Fixed-term workers

Q ... How long can a fixed-term worker be employed?

A ... A fixed-term worker cannot be employed for more than two years



Additional information

- A fixed-term worker who has been employed for a term exceeding two years shall be considered to have signed a contract of an indefinite term (regular employment contract)
- **A fixed-term worker employed for a period exceeding two years shall not be considered as having signed a contract of an indefinite term in the following cases:**
 - When the employer has predetermined the period of time required to complete a particular business or task
 - When an employee is on leave or dispatched to another workplace, and there is a need to hire a substitute to replace the employee until he/she returns to work
 - When an employee takes schooling or vocational training and he/she sets a period of time required to complete the schooling or training
 - When the employer needs to hire workers with professional knowledge or skills as prescribed by Presidential Decree¹⁵⁴⁾

154) – When a worker who has obtained a doctorate degree engages in a relevant field.

– When a worker who has obtained national technical qualifications as a technician or equivalent level and engages in a relevant field.

– When a worker who has obtained professional qualification as an architect, accountant, lawyer, tax accountant, doctor, etc. engages in a relevant field.

97 | Dispatched workers

Q ... For how long can dispatched workers be used and in what types of businesses are dispatched workers permitted?

A ... In principle, dispatched workers cannot be used in excess of one year. However, where there is an agreement among the temporary work agency, the user company and the dispatched worker, the dispatch period can be extended. The total dispatch period including the extended period cannot exceed two years. Also, dispatched workers can be hired only for the jobs designated under the Enforcement Decree of the Act on the Protection, etc. of Temporary Agency Workers.



Additional information

● Dispatch period

- In the case there are job vacancies due to childbirth, illness or injury, the dispatched worker can be used for the period deemed necessary to resolve the cause for such job vacancies (the period may exceed one year). Where there is a need to secure manpower temporarily and intermittently, a dispatched worker may be used within a period of three months (can be extended by three months).
- If a dispatched worker is used continuously in excess of two years, the user company should directly employ the dispatched worker.

● Business categories for which dispatched workers can be used

● Dispatched workers cannot be used for jobs directly related to production in the manufacturing industry

- Dispatched workers can be used only for certain jobs that are deemed appropriate for worker dispatching considering the necessary professional expertise, skills, experience and nature of work. (The Enforcement Decree of the Act on the Protection, etc. of Temporary Agency Workers lists 32 job categories including computer professionals for which dispatched workers can be used.)

- Even in job categories for which dispatched workers cannot be used, such as production in the manufacturing industry, dispatched workers can be used where there are job vacancies due to childbirth, illness or injury or there is a need to secure manpower temporarily and intermittently.

98 | Substitute holidays

Q ... What days are designated as substitute holidays?

A ... If Seollal (Lunar New Year) or Chuseok holidays fall on a holiday or if Children's Day falls on a Saturday or another holiday, the first non-holiday that follows is designated as a substitute holiday.



Additional information

- The substitute holiday system was introduced in November 2013 through the revision of the Regulations on Holidays of Government Offices (Presidential Decree).
- As of April 2018, the regulations apply to public offices, and to private companies whose rules of employment or collective agreement comply with the regulations.
- With the amendment of the Labor Standard Act on March 20, 2018, the regulations will be applied to all private companies. Consequently, public holidays should be paid holidays and the substitute holiday system shall apply as well. However, the regulations shall be applied in phases starting from 2020 (business establishments with 300 or more employees: from Jan. 1, 2020; business establishments with 30 or more but less than 300 employees: from Jan. 1, 2021; business establishments with more than five but less than 30 employees: from Jan. 1, 2022).

99 | Maternity leave

Q ... How long is the maternity leave period?

A ... For enterprises eligible for preferential support (Article 12 of the Enforcement Decree of the Employment Insurance Act), wages for 90 days (ordinary wage) shall be covered by employment insurance. If the wages paid for the first 60 days falls short of the employee's monthly wage, the difference should be covered by the company.



Additional information

- **Minimum post-natal leave period**
 - An employer should grant maternity leave so that a pregnant worker can use at least 45 days after giving birth. Even when a worker has used more than 45 days of maternity leave before giving birth, at least 45 days of leave should be granted in the post-natal period. However, the days used in excess of 90 days may be given without pay.
- **Maternity leave shall be granted even in the case of miscarriage or stillbirth, as follows:**
 - Within 11 weeks into pregnancy: Five days of leave from the date of miscarriage or stillbirth
 - 12-15 weeks into pregnancy: 10 days of leave from the date of miscarriage or stillbirth
 - 16-21 weeks into pregnancy: 30 days of leave from the date of miscarriage or stillbirth
 - 22-27 weeks into pregnancy: 60 days of leave from the date of miscarriage or stillbirth
 - 28 weeks or longer into pregnancy: 90 days of leave from the date of miscarriage or stillbirth

100 | Probationary period

Q ... How long should be the probationary period?

A ... The probationary period is not defined by the Labor Standards Act, but in most cases, the probationary period is within three months.



Additional information

- An employer is allowed to set a probationary period for an employee, during which the employee may improve his/her job competency and adaptability to the workplace
- The probationary period is not defined by the Labor Standards Act. However, based on the regulations of the Act which state that an employer may dismiss an employee without prior notice within three months of employment, most companies set the probationary period at three months.

101 | Compensatory leave system

Q ... What is the compensatory leave system?

A ... Under the compensatory leave system, an employer may grant workers leaves instead of wage payments for extended work, night work or holiday work. To adopt a compensatory leave system, a written agreement between an employer and the labor representative is required.



Additional information

- **Standards for granting compensatory leave**
 - The wages for extended work, night work or holiday work and the leaves granted instead of such wage payments should be of equal value. In this regard, additional wage pursuant to Article 55 of the Labor Standards Act should be considered as well. For example, for two hours of holiday work, wage should be paid for three hours of work to include additional wage. In this regard, compensatory leave of three hours should be granted
- **Obligation to pay wages if compensatory leave is not used**
 - Because the compensatory leave system grants leaves in place of wages, workers should be paid wages for unused days of leave. Unlike annual paid leave, even if the employer promotes the use of compensatory leave, he/she is not exempted from the obligation to pay monetary compensation for unused leave.

102 | Foreign-invested companies' obligation to hire Korean employee

Q ... Are newly established foreign-invested companies obligated to hire Korean employees?

A ... There are no laws or regulations that mandatorily require foreign-invested companies to hire Korean workers.



Additional information

- However, the number of foreign experts (E-7 visa holders) who can be employed is limited up to 20 percent of the number of Korean employees. Therefore, business establishments with less than five Korean employees cannot hire foreign experts. However, where a recommendation from KOTRA is acquired, foreign experts in the field of high technology can be employed, up to 50% of the number of Korean employees.

103 | Business owners' obligation to conduct health examinations for employees

Q ... Do business owners have a legal obligation to conduct health examinations for employees?

A ... In accordance with Article 43 of the Occupational Safety and Health Act, a business owner should arrange for health examination institutions to examine employees' health - at least once every two years for office workers and once a year for other workers.



Additional information

- Employees who engage in office work such as administrative affairs, HR, accounting, sales, and design in an office that is not in the same area as a factory or factory site, excluding employees directly engaging in sales business (Article 99 (1) of the Enforcement Rules of the Occupational Safety and Health Act)
- Method of conducting health examinations: A business owner shall arrange for institutions designated by the Minister of Employment and Labor or institutions conducting health examination pursuant to the National Health Insurance Act, to examine employees' health in order to protect and maintain his/her employee's health (Article 43 (1) of the Occupational Safety and Health Act)

104 | Causes for requesting interim settlement of retirement pay

Q

In what cases can an employee request interim settlement of retirement pay to his/her employer?

A

An employer can request interim settlement of retirement pay to his/her employer only in cases determined by the Enforcement Decree of the Act on the Guarantee of Workers' Retirement Benefits, such as where a non-homeowner purchases a house, where an employee is declared bankrupt, or where the peak wage system applies. However, the employer does not have any legal obligation to accept an employee's request for interim settlement of retirement pay.



Additional information

● Grounds for interim settlement of retirement pay

1. Where an employee who is a non-homeowner purchases a house in his/her own name
2. Where an employee who is a non-homeowner takes a responsibility for the tenancy deposit or a security deposit for residential purposes. In such cases, the number of such occurrences shall be limited to one time while the worker works in the same business or workplace
3. Where an employee pays the medical care costs incurred for convalescence from illness or injury of a person falling under any of the following, which requires at least six months of convalescence:
 - a) The employee himself/herself
 - b) The spouse of the employee
 - c) Family members dependent on the employee or on the spouse of the employee
4. Where an employee is declared bankrupt within five years counted retroactively from the date of requesting interim settlement of retirement pay
5. Where an employee receives a decision to commence individual rehabilitation procedures within five years counted retroactively from the date of requesting interim settlement of retirement pay
6. Where the employer reduces employees' wage based on their age, retention period or amount of wage on condition that the original retirement year is guaranteed or extended, based on collective bargaining or rules or employment.
7. Other cases falling under the grounds and requirements determined and publicly notified by the Minister of Employment and Labor, such as where damage is inflicted by a natural disaster, etc.

105 | Measures to urge workers to take annual paid leave

Q

Is there a way to avoid compensation for workers' unused annual paid leave?

A

If an employer urges every worker in writing to use their unused annual paid leave according to the procedures set by the measures to urge workers to take annual paid leave, the employer shall not be liable to monetarily compensate for the unused paid leave.



Additional information

- **Measures to urge workers to take annual paid leave (Article 61, Labor Standards Act)**
 - Within 10 days of six months prior to the expiration of the period during which paid leave can be used (one year after paid leave is granted), an employer shall notify employees the number of days of paid leave each employee has used, and urge employees in writing to notify the employer of the period they plan to use the remaining paid leave days.
 - Despite being urged by the employer, if the employee fails to notify the employer of the period he/she plans to use part or all of his/her remaining paid leave days, the employer shall set a period for using the employee's paid leave days and notify the employee in writing, no later than two months before the period during which paid leave can be used (one year).
 - If the employee does not use his/her paid leave days although the employer has taken the above measures, the employer is exempted from the liability to monetarily compensate the employee for his/her unused paid leave days.

106 | Retirement age

Q ... Is there a retirement age set by law?

A ... The retirement age of workers is set at 60 years of age or older by law.



Additional information

An employer shall set the retirement age of employees at 60 years of age or older. In the case where any employer sets the retirement age of employees at below 60 years of age notwithstanding the above the retirement age shall be deemed set at 60 (Article 19, Act on Prohibition of Age Discrimination in Employment and Elderly Employment Promotion). Therefore, if an employment contract, rules of employment, or collective bargaining sets the retirement age at below 60 years of age, the clause on retirement age shall be deemed invalid.

Acquisition of Real Estate

107 | Points to check when acquiring land in Korea

Q

What should a foreigner check before concluding a land acquisition contract in Korea?

A

A foreigner should check whether the process will require post-contract notification or pre-contract permission (penalties are imposed for violations).



Additional information

- If a foreigner does not obtain permission before concluding a contract for acquisition of land that requires pre-contract permission, the contract shall be considered invalid and the foreigner may face a fine or imprisonment.
- **Permission for land transactions conducted by foreigners, etc. (Article 9 of the Act on Real Estate Transactions, Etc.)**
 1. Military bases and installation protection zones defined in Article 2, Subparagraph 6 of the Protection of Military Bases and Installations Act, and such other areas as may be necessary to limit land especially acquisition by a foreigner, etc. for the purposes of national defense.
 2. Designated cultural heritage defined in Article 2 (2) of the Cultural Heritage Protection Act, and protective facilities or protection zones therefor
 3. Ecological and scenery conservation areas defined in Article 2, Subparagraph 12 of the Natural Environment Conservation Act
 4. Special districts for protection of wildlife under Article 27 of the Wildlife Protection and Management Act
- **Penalties for violation**

A foreigner, etc. who enters into any land acquisition contract without obtaining permission or after obtaining permission by illegal means shall be punished by a fine of up to KRW 20 million or imprisonment up to two years.

108 | Foreigners' real estate acquisition procedure

Q

If a foreigner acquires real estate in Korea, what procedures are applied?

A

If a foreigner acquires land in Korea, the laws and procedures that apply differ depending on the purpose of acquisition, whether the foreigner resides in Korea, and whether the foreigner is an individual or a company. The details are as follows:



Additional information

- The Foreigners' Land Acquisition Act only stipulates the procedures (e.g. land acquisition report) that apply when a foreigner acquires land in Korea. In this regard, when real estate is acquired for profit-making purposes (e.g. real estate lease), foreign-invested company registration by notification of foreign investment pursuant to the Foreign Investment Promotion Act is required. Non-residents under the Foreign Exchange Transactions Act should additionally notify real estate acquisition.
- If a foreign company establishes a branch in Korea, notification of branch establishment under the Foreign Exchange Transactions Act shall apply instead of foreign investment notification under the Foreign Investment Promotion Act. After branch registration, real estate can be purchased under the name of the branch.

Classification	Foreigners' Land Acquisition Act	Foreign Exchange Transactions Act	Foreign Investment Promotion Act
Acquiring entity	<ul style="list-style-type: none"> • Foreigner <ul style="list-style-type: none"> - Foreign national - Foreign company - A company or organization where at least 1/2 of its employees, members or executives are foreign nationals - A company or organization where foreign nationals or foreign companies account for at least 1/2 of its shareholders <p>※ Permanent residency holders are excluded</p>	<ul style="list-style-type: none"> • Non-resident <p>※ Permanent residency holders are excluded.</p>	<ul style="list-style-type: none"> • Foreigner <ul style="list-style-type: none"> - Foreign national - Foreign company <p>※ Permanent residency holders are included.</p>
Appli-cation	Acquisition of real estate, etc.	Acquisition of rights pertaining to land, building and real estate	Foreign-invested company registration
When & where to report	<ul style="list-style-type: none"> • Si/Gun/Gun office having jurisdiction over the land • Within 60 days of concluding a contract 	<ul style="list-style-type: none"> • Headquarters and branches of a foreign exchange bank • Bank of Korea (for domestically sourced funds) • When funds for acquisition of real estate are withdrawn 	<ul style="list-style-type: none"> • Headquarters and branches of a foreign exchange bank, KOTRA • Prior to introduction of investment funds
About the law	Regulations on the procedures applied to foreigners' acquisition of real estate in Korea	Regulations on the inflow and outflow of foreign exchange concerning foreigners' purchase of domestic real estate	Regulations on foreign-invested companies' domestic real estate purchase including foreign investment notification procedures, tax reduction and exemption, and sale of state-owned assets

109 | Foreigners' notification of real estate acquisition and ownership

Q ... If a foreigner concludes a contract for acquiring real estate in Korea, should he/she notify the acquisition?

A ... In principle, a foreigner should file a notification within a certain period from the date of concluding the acquisition contract. However, notification is not required in the case of real estate sales contracts, real estate supply contracts according to the Housing Act, etc.



Additional information

- Where a foreigner, etc.¹⁵⁵⁾ concludes a contract for obtaining real estate, etc. in Korea, he/she should notify the relevant authorities within 60 days of concluding the contract.
- Where a foreigner, etc. obtains real estate, etc. in Korea through a means other than a contract such as inheritance or auction, he/she/it should notify the relevant authorities within six months of obtaining the real estate, etc.
- Where a Korean national or a corporation or organization established under Korean law which owns real estate, etc. in Korea is changed to a foreigner, etc. and the foreigner, etc. intends to continue owning the said real estate etc., he/she/it should notify the relevant authorities of the change within six months as prescribed by presidential decree.

155) A foreigner, etc. refers to one of the following individual, corporation or organization

- a. An individual of foreign nationality
- b. A corporation established in accordance with foreign law
- c. A corporation or organization where at least half of its employees or members fall under item a.
- d. A corporation or organization where at least half of its employees or directors executing business (i.e. executives) fall under item a
- e. A corporation or organization where a person falling under item a or a corporation or organization falling under item b owns at least half of the corporation or organization's capital or voting rights.
- f. A foreign government
- g. An international organization prescribed by presidential decree

- **Penalties for failure to notify acquisition of real estate, etc.**
 1. Notification of land acquisition through a contract: A fine of up to KRW 3 million is imposed on the person who did not notify land acquisition or made a false notification
 2. Notification of land acquisition through means other than a contract: A fine of up to KRW 1 million is imposed on the person who did not notify land acquisition or made a false notification
 3. Notification of continued ownership of real estate: A fine of up to KRW 1 million is imposed on the person who did not notify continued ownership of land or made a false notification.

110 | Real estate acquisition by a domestic branch of a foreign company

Q

Is a domestic branch of a foreign company required to notify real estate acquisition? Also, how should the real estate acquisition funds be introduced?

A

Real estate acquisition by a foreigner should be notified.



Additional information

- Because a domestic branch of a foreign company is considered a foreigner under the Act on Report on Real Estate Transactions, etc., acquisition of real estate should be notified. If the domestic branch seeks to acquire domestic real estate by introducing funds from overseas, the branch may introduce operational funds from its overseas headquarters through a designated foreign exchange bank without having to notify real estate acquisition under the Foreign Exchange Transaction Act because it is deemed a “resident” under the Act¹⁵⁶⁾.

156) Article 9-34 of the Regulations on Foreign Exchange Transaction

111 | Real estate acquisition by a company where no less than half of its executives are foreign nationals

Q ... Is real estate acquisition notification required for a domestic company where no less than half of its executives are foreign nationals?

A ... Yes.



Additional information

- A domestic company is considered a ‘foreigner, etc.’¹⁵⁷⁾ under the Act on Report on Real Estate Transactions, etc. if no less than half of its executives are foreigners or if a foreign national or foreign company owns no less than half of its shares. Therefore, the domestic company should notify real estate acquisition.

157) A foreigner, etc. refers to one of the following individual, corporation or organization

- a. An individual of foreign nationality
- b. A corporation established in accordance with foreign law
- c. A corporation or organization where at least half of its employees or members fall under item a.
- d. A corporation or organization where at least half of its employees or directors executing business (i.e. executives) fall under item a
- e. A corporation or organization where a person falling under item a or a corporation or organization falling under item b owns at least half of the corporation or organization's capital or voting rights.
- f. A foreign government
- g. An international organization prescribed by presidential decree

112 | Real estate acquisition by a domestic corporation where no less than 50 percent of its shares is held by foreigners

Q

In the case that a domestic corporation in which no less than 50 percent of its shares is held by foreigners acquires real estate in Korea, does the corporation need to notify real estate acquisition in accordance with the Foreign Exchange Transaction Act?

A

Notification of real estate acquisition is required under the Act on Report on Real Estate Transactions, Etc. but notification of real estate acquisition is not required under the Foreign Exchange Transaction Act.



Additional information

- In this case, although the domestic corporation is deemed a 'foreigner' under the Act on Report on Real Estate Transactions, Etc., it is considered a 'resident' under the Foreign Exchange Transaction Act, and therefore does not need to notify real estate acquisition.
- It should be noted that the Foreign Investment Promotion Act applies to foreign investors planning to register a foreign-invested company, therefore foreign investors seeking to acquire real estate by introducing investment funds or long-term loans should carry in funds after notifying foreign investment.

113 | Foreigner's land division

Q ... If a foreigner seeks to divide land within a foreign investment zone, is a permission from the head of the local government required?

A ... No.



Additional information

- A person who intends to engage in certain development activities in an urban area (e.g. constructing buildings, altering the form and quality of land, gathering earth and rocks, division of land) should obtain permission for the activities from the Special Metropolitan City Mayor, the Metropolitan City Mayor, or the head of a Si/Gun¹⁵⁸⁾. However, permission is not required to divide land inside a Foreign Investment Zone¹⁵⁹⁾.

158) Article 56 (1) 4 of the National Land Planning & Utilization Act

159) Article 20 (1) of the Foreign Investment Promotion Act

Taxation & Accounting

114 | External audit requirements

Q ... Is a foreign-invested company required to be audited by an external auditor?

A ... Both domestic and foreign-invested stock companies should be audited by an external auditor, if they fall under certain conditions. As of March 2018, foreign-invested companies that are not in the form of a stock company (e.g. limited company) are not obligated to be audited by an external auditor (Due to the pre-announcement of legislation for the revision of law on April 19, 2018, new requirements shall be applied to business years commencing on or after November 1, 2019).

115 | Taxation for a private business vs. corporation

Q ... What is the difference between a private business and a corporation when it comes to taxation?

A ... Simply compared in terms of tax rate, the tax paid by a corporation is less than the tax paid by a private business at the present, except for the tax base bracket of not more than KRW 12 million. Therefore, a corporation has an advantage over a private business in terms of net profit and tax saving for the purpose of reinvestment of profit and expansion of business. However, the fact that the method of recovering profit from business (e.g., salary, retirement benefit, dividend) is limited and imposition of income tax at each stage (e.g. earned income, retirement income, dividend income) should be comprehensively considered.



Additional information

- Private business vs. corporation

	Private business		Corporation	
Taxable income	Income stated in the Income Tax Act (income source theory)		Net income increased in the business year (increased net asset theory)	
Tax obligation	Income for the taxable year		Business income and income from liquidation in each business year	
Tax rate	Tax base (KRW)	Tax rate	Tax base (KRW)	Tax rate
	≤ 12 mil.	6% of tax base	≤ 200 mil.	KRW 20 mil. + (the amount exceeding KRW 200 mil. X 20%)
	> 12 mil. and ≤ 46 mil.	KRW 720,000 + (the amount exceeding KRW 12 mil. x 15%)	> 200 mil. and ≤ 20 bil.	KRW 3,980 mil. + (the amount exceeding KRW 20 bil. X 22%)
	> 46 mil. and ≤ 88 mil.	KRW 5.82 mil. + (the amount exceeding KRW 46 mil. x 24%)	> 20 bil. and ≤ 300 bil.	KRW 65.58 bil + (the amount exceeding KRW 300 bil. X 25%)
	> 88 mil. and ≤ 150 mil.	KRW 15.9 mil. + (the amount exceeding KRW 88 mil. x 35%)	> 300 bil.	KRW 65.58 bil + (the amount exceeding KRW 300 bil. X 25%)
	> 150 mil. and ≤ 300 mil.	KRW 37.6 mil. + (the amount exceeding KRW 150 mil. x 38%)	* Local income tax equivalent to around 10 percent of the amount of corporate tax is levied.	
	> 300 mil. and ≤ 500 mil.	KRW 94.6 mil. + (the amount exceeding KRW 300 mil. x 40%)		
	> 500 mil.	KRW 174.6 mil. + (the amount exceeding KRW 500 mil. x 42%)		
	*Local income tax equivalent to around 10 percent of the amount of global income tax is levied.			

	Private business	Corporation
Establishment procedure	Simple	Rather complicated. Registration tax is imposed
Operation of business	Free	Requires resolution of general meeting of shareholders, board of directors
Recovery of profit	Free	- Executives: Salary, severance pay - Shareholders: Dividend
Liabilities for debt from business operations	Unlimited liability	Limited liability

116 | Payment of value added tax for entrepreneurs with two or more business places

Q

If an entrepreneur who has two or more business places carries out goods manufactured in or acquired from one business place to another to directly sell the goods, does he/she need to file value-added tax (VAT) return?

A

In principle, VAT should be filed and paid for each business place. In this regard, the carrying out of goods to another business place is considered the supply of goods, and the business place from which the goods have been carried out shall file VAT return and the place of business which received the goods shall file VAT refund claims. However, where an entrepreneur with two or more business places who is a per-business unit taxable entrepreneur or has applied for collective payment of VAT at his/her main business place carries out goods from one of his/her business place to another during the relevant taxable period, this shall not be considered supply of goods, and therefore VAT filing is not required¹⁶⁰⁾.



Additional information

- **Place of tax return & payment**¹⁶¹⁾
 - In principle, VAT should be filed and paid at each business place.
- Any entrepreneur with two or more business places may file an application for registration as a per-business unit taxable entrepreneur to the head of the tax office having jurisdiction over his/her main office or principal business place in accordance with Article 8 (3) of the Value Added Tax Act. Therefore, an entrepreneur registered as a per-business unit taxable entrepreneur may collectively file a single VAT return and pay the tax.

¹⁶⁰⁾ Article 10 (3) of the Value Added Tax Act

¹⁶¹⁾ Article 8 of the Value Added Tax Act

- Consolidated payment at main office

- In the event that any entrepreneur has two or more business places, such entrepreneur may pay value-added tax collectively at his/her principal business place after filing an application to the head of the tax office having jurisdiction over his/her principal business place.

117 | Value-added tax refund

Q

Can a foreign company (foreign business operator) visiting Korea for a business meeting claim a refund for the value-added tax imposed on the goods and services it received in Korea for business purpose?

A

Yes. The company can receive refund for value-added tax imposed on food and lodging service or advertising service.



Additional information¹⁶²⁾

- A foreign company that has no place of business in Korea or a non-resident doing business in a foreign country (foreign business operator) may claim a refund for value-added tax applied to the following goods or services, provided such goods or services are business-related. However, the refund is not available to a foreign business operator whose total refundable amount for the calendar year is KRW 300,000 or less.
 - Food and lodging service
 - Advertising service
 - Electricity or communications service
 - Real-estate lease service
 - Certain goods or services necessary for the operation and maintenance of a domestic office of a foreign business as prescribed by the ordinance of the Ministry of Strategy and Finance.

162) Article 107 (6) and (8) of the Restriction of Special Taxation Act and Article 107 of the Enforcement Decree of the Act

- The refund of value-added tax applies only when a relevant foreign country makes the same refunds to Korean businessmen (principle of reciprocity).

118 | Value-added tax for imported goods

Q ... What is the tax base for value-added tax (VAT) on imported goods?

A ... The tax base for VAT on imported goods shall be the sum of the taxable value for customs duties and customs duties, individual consumption tax, liquor tax, education tax, special tax for agricultural and fishing villages, and traffic, energy, and environment tax.



Additional information

- VAT is imposed on the following transactions: 1) supply of goods or services by entrepreneurs and 2) importation of goods¹⁶³⁾. In other words, entrepreneurs are obligated to pay tax for the supply of goods or services, and the taxable objects are limited to those supplied domestically. However, for imported goods, all importers are obligated to pay tax, regardless of the purpose of import and whether importers are entrepreneurs or not.
- VAT is imposed on goods on import because VAT is an indirect tax imposed on goods consumed or services used domestically. When goods are imported, the goods are expected to be consumed or used domestically and VAT is imposed, so that equal tax burden is applied to imported goods and goods manufactured domestically.
- The tax base for VAT on the importation of goods shall be the total sum of the taxable value for customs duties and the customs duties, individual consumption tax, liquor tax, education tax, special rural development tax, and traffic, energy and environment tax on such goods¹⁶⁴⁾.

163) Article 4 of the Value-Added Tax Act

164) Article 29 (2) of the Value-Added Tax Act

119 | Tax on import of liquor

Q

A foreigner intends to operate an imported liquor wholesale business in Korea. In this case, what types of tax are imposed on imported liquor?

A

Customs duties, liquor tax, education tax and value-added tax are imposed on imported liquor.



Additional information

● Procedures required under relevant laws

- Procedure under the Liquor Tax Act: A license to import and export liquor should be obtained.
 - * Relevant authority: National Tax Service (www.nts.go.kr)
- Procedure under the Food Sanitation Act: Declaration of import of food, etc. should be filed to the Minister of Food and Drug Safety or the head of the National Quarantine Station. Goods should pass quarantine to clear customs for import.
 - * Relevant authority: Ministry of Food and Drug Safety (www.kfda.go.kr), National Quarantine Station (nqs.cdc.go.kr)
- Procedure under the Act on the Promotion of Saving and Recycling of Resources: The Korea Environment Corporation's confirmation on whether liquor containers are subject to waste disposal charge is required.
 - * Relevant authority: Korea Environment Corporation (www.keco.or.kr)

● Import clearance procedure

If goods that completed the above procedures arrive, the goods undergo import declaration, goods inspection, customs duty payment, etc.

● Types of tax applied and computation of tax amount

For example, for imported vodkas (HSK2208.60-0000), tariff rate(check FTA tariff rate), liquor tax rate of 72 percent and VAT of 10 percent is applied, and the amount of tax is computed as follows¹⁶⁵⁾:

165) Article 15 and 49 of the Customs Act, Article 22 (2) of the Liquor Tax Act, Article 5 (1) of the Education Tax Act, Article 13 and 30 of the Value Added Tax Act, and Article 60 of the Enforcement Decree of the Value Added Tax Act

- Tariff: Taxable value (price of goods + freight bill + insurance bill) x tariff rate (check FTA tariff rate)
- Liquor tax = (taxable value for customs duties + customs duties) x liquor tax rate (72%)
- Education tax = 30% of the amount of liquor tax
- Value-added tax = (Taxable value of customs duties + customs duties + liquor tax + education tax) x value-added tax rate (10%)

120 | Insufficient capital tax system

Q ... What is the insufficient capital tax system?

A ... While interest expense is recognized as expense and therefore has the effect of reducing tax, dividend does not reduce tax because it is not recognized as expense. In this regard, instead of contributing capital, a company chooses to increase borrowings to pay for interest expenses, in order to reduce tax by increasing its expenses. In order to prevent this practice, the insufficient capital tax system does not recognize interest for excess borrowing used to pay foreign controlling shareholders, etc. as expense.



Additional information

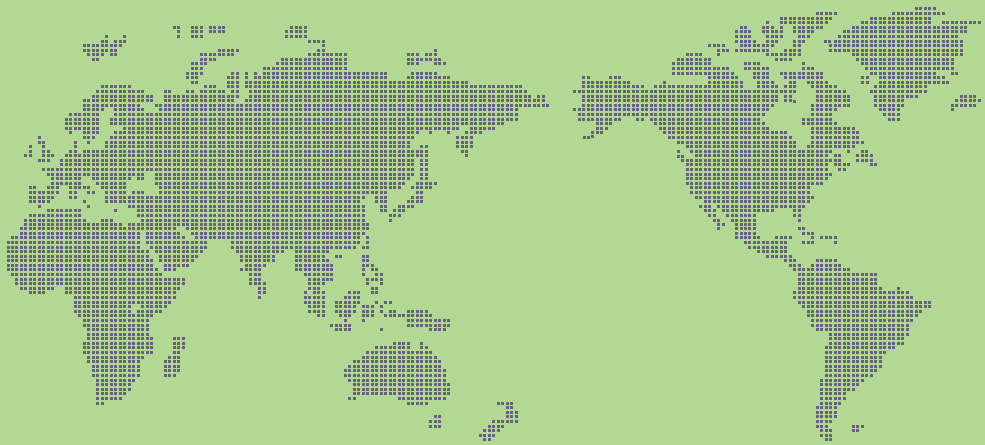
- Where a domestic company borrows funds from a foreign controlling shareholder, or from a third party under a payment guarantee by the foreign controlling shareholder, and such borrowings exceed two times (six times in the case of finance industries) as much as the equity shares contributed with shares, etc. by the relevant foreign controlling shareholder, the interest paid and discount fee for the relevant amount in excess shall be deemed to have been disposed of as a dividend or an outflow of income, and shall not be included in deductible expenses of the relevant domestic company¹⁶⁶⁾.

¹⁶⁶⁾ Article 14 (1) of the Adjustment of International Taxes Act

- A foreign controlling shareholder refers to one of the following and which has control over a domestic company or a foreign company's domestic place of business.
 - When a domestic company is controlled: foreign shareholders and contributors ("foreign shareholders") and foreign companies in which the foreign shareholders contributed in
 - When a foreign company's domestic place of business is controlled: the headquarters or branches (branches located overseas) of a foreign company, foreign shareholders of the foreign company and a company in which the foreign company and foreign shareholders contributed

Q&A

on FDI in Korea



IV. Settlement

121 | Alien registration

Q ... Is alien registration required for foreigners residing in Korea?

A ... A foreigner who intends to stay in Korea in excess of 90 days from the date of entry into Korea should apply for alien registration at the immigration office having jurisdiction over his/her place of sojourn.



Additional information

- Foreigners who intend to stay in Korea for 91 days or longer should apply for alien registration within 90 days of arrival in Korea, and foreigners who are granted status of sojourn or change of status of sojourn should apply for alien registration immediately after being granted such status.
- Required documents: Application form, passport, color photo (3.5 x 4.5 cm), documents required for the relevant sojourn status, fee (KRW 20,000, exempted for D-8 visa holders)
- **Where to acquire information on visa and documents required for visa application:**
 - Invest KOREA website (information on D-8 visa only): www.investkorea.org
 - Government portal for foreigners: www.hikorea.go.kr
 - Korea Immigration Service: www.immigration.go.kr
 - Korea Visa Portal: www.visa.go.kr
 - 1345 Immigration Contact Center: Dial 1345 (※ Consulting available in Korean and 19 languages)

122 | Change in status of sojourn

Q ... What are the documents required to acquire a D-8 visa?

A ... The documents required are as follows:



Additional information

When the foreign investor is an individual:

1. Consolidated application form
2. Passport and ID photo
3. Tuberculosis test certificate (for nationals of countries with high incidence of tuberculosis) – certificate issued by a community health center
[Countries with high tuberculosis incidence]
① Nepal ② East Timor ③ Russia ④ Malaysia ⑤ Mongol ⑥ Myanmar
⑦ Bangladesh ⑧ Vietnam ⑨ Sri Lanka ⑩ Uzbekistan ⑪ India ⑫ Indonesia
⑬ China ⑭ Cambodia ⑮ Kyrgyzstan ⑯ Thailand ⑰ Pakistan ⑱ Philippines
4. Copy of certificate of foreign-invested company registration
5. Copy of business registration
6. Corporation registration certificate issued in the past three months
7. Specification of change in shareholders (original copy)
8. Copy of document certifying place of sojourn (real estate lease contract, etc.)
9. Copy of office lease contract
10. Documents certifying introduction of investment funds
 - Document certifying permission to carry out foreign currency issued by the tax office or bank of the investor's home country
 - Specification of remittance of foreign currency (where funds were remitted) or customs declaration form (where funds were hand-carried)
 - Foreign currency purchase certificate
11. Documents certifying sales record (import and export record, etc.) – if applicable
 - Certificate of export declaration (export and import permit), certificate of VAT tax base
12. Copy of corporate bankbook and withdrawal and deposit records of corporate account

13. Specification of where investment funds were used and supporting documents
 - Receipt for purchase of goods
 - Receipt for office interior design expense, etc.
 - Withdrawal and deposit record of a domestic bank account
14. Photo of place of business (place of business, office space, signage, etc.)
15. Documents related to business experience in the relevant industry or field – if necessary

When the investor is a corporation

1. Consolidated application form
2. Passport and alien registration card
3. Tuberculosis test certificate (for nationals of countries with high incidence of tuberculosis) – certificate issued by a community health center
[Countries with high tuberculosis incidence]
① Nepal ② East Timor ③ Russia ④ Malaysia ⑤ Mongol ⑥ Myanmar
⑦ Bangladesh ⑧ Vietnam ⑨ Sri Lanka ⑩ Uzbekistan ⑪ India ⑫ Indonesia
⑬ China ⑭ Cambodia ⑮ Kyrgyzstan ⑯ Thailand ⑰ Pakistan ⑱ Philippines
4. Copy of foreign-invested company registration certificate
5. Copy of business registration certificate
6. Corporation registration certificate issued in the past three months
7. Dispatch order and certificate of employment (for dispatched employees)
※ As for the dispatch order, even if an employee is dispatched from a branch, the order should be issued by the investor on the foreign-invested company registration certificate (i.e., headquarters). Also, the dispatch order should state the dispatch period.
8. Certificate of personal tax payment or receipt of earned income tax withholding
9. Certificate of sales record (e.g. import and export record)
 - Certificate of tax payment (including corporate tax, earned income tax, value added tax)
 - Where the investment funds are not more than KRW 300 million, a certificate of value added tax base
10. Copy of certificate of place of sojourn (e.g. real estate lease agreement)
(When leased under the company's name: Submit confirmation of residency/ provision of lodging)

※ The following are to be submitted when there are changes after incorporation

11. Original copy of specification of change of shareholders
12. Documents certifying introduction of investment funds (in the case of investment in cash)
 - Document certifying permission to carry out foreign currency issued by the tax office or bank of the investor's home country
 - Specification of introduction of investment funds (confirmation of remission, certificate of purchase of foreign currency, customs declaration form)
13. Copy of office lease contract



Additional information

- Basic requirements: A foreigner should invest at least KRW 100 million in a Korean company and own 10/100 or more of the total stocks with voting rights of the invested company¹⁶⁷⁾, or own the stocks, etc. of a company and enter into a contract to dispatch or appoint executives¹⁶⁸⁾
- Eligibility: Indispensable professional specialists (excluding those hired in Korea) planning to work in the field of management, business administration, production or technology of a foreign-invested company as prescribed by the Foreign Investment Promotion Act, a Korean company (including those under the process of being established) or a company run by a Korean national (individual)
- Where the immigration office deems it necessary, the documents stated above maybe added or subtracted. Therefore, when additional documents are required according to the Enforcement Rule of the Immigration Act, such documents should be prepared.

¹⁶⁷⁾ Article 2 (2) 1 of the Enforcement Decree of the Foreign Investment Promotion Act

¹⁶⁸⁾ Article 2 (2) 2 of the Enforcement Decree of the Foreign Investment Promotion Act

123 | Extension of period of sojourn

Q ... What are the documents that are required to extend a D-8 visa?

A ... The documents required are as follows:



Additional information

When the foreign investor is an individual

1. Consolidated application form
 2. Tuberculosis test certificate (for nationals of countries with high incidence of tuberculosis) – certificate issued by a community health center
[Countries with high tuberculosis incidence]
① Nepal ② East Timor ③ Russia ④ Malaysia ⑤ Mongol ⑥ Myanmar
⑦ Bangladesh ⑧ Vietnam ⑨ Sri Lanka ⑩ Uzbekistan ⑪ India ⑫ Indonesia
⑬ China ⑭ Cambodia ⑮ Kyrgyzstan ⑯ Thailand ⑰ Pakistan ⑱ Philippines
 3. Passport and alien registration card
 4. Copy of certificate of foreign-invested company registration
 5. Copy of business registration certificate
 6. Corporation registration certificate issued in the past three months
 7. Documents certifying sales record (import and export record, etc.)
 - Certificate of payment of tax (including corporate income tax, earned income tax)
 - Certificate of export declaration (export and import permit)
 - Certificate of VAT tax base
 - Certificate of export debt collection (withdrawal and deposit statement on the bankbook)
 8. Certificate of personal tax payment or receipt of earned income tax withholding
 9. Copy of certificate of place of sojourn (e.g. real estate lease agreement)
 10. Copy of office lease agreement
 11. Copy of corporate bankbook and withdrawal and deposit records of corporate account
- ※ The following are to be submitted when there are changes after incorporation

12. Specification of where investment funds were used and supporting documents
 - Goods purchase receipt, office interior expense, domestic bank withdrawal and deposit record, etc.
13. Photo of place of business (place of business, office space, signage, etc.)
14. Original copy of specification of change in shareholders, etc.
15. Documents certifying introduction of investment funds (in the case of investment in cash)
 - Document certifying permission to carry out foreign currency issued by the tax office or bank of the investor's home country
 - Specification of remittance of foreign currency (where funds were remitted) or customs declaration form (where funds were hand-carried)
 - Foreign currency purchase certificate

Where the foreign investor is a corporation

1. Consolidated application form
2. Passport and alien registration card
3. Tuberculosis test certificate (for nationals of countries with high incidence of tuberculosis) – certificate issued by a community health center
[Countries with high tuberculosis incidence]
① Nepal ② East Timor ③ Russia ④ Malaysia ⑤ Mongol ⑥ Myanmar
⑦ Bangladesh ⑧ Vietnam ⑨ Sri Lanka ⑩ Uzbekistan ⑪ India ⑫ Indonesia
⑬ China ⑭ Cambodia ⑮ Kyrgyzstan ⑯ Thailand ⑰ Pakistan ⑱ Philippines
4. Copy of foreign-invested company registration certificate
5. Copy of business registration certificate
6. Corporation registration certificate issued in the past three months
7. Dispatch order and certificate of employment in the case of dispatched employees
8. Certificate of personal tax payment or receipt of earned income tax withholding
9. Certificate of sales record (e.g. import and export record)
 - Certificate of tax payment (including corporate tax, earned income tax, value added tax)
 - Where the investment funds are not more than KRW 300 million, a certificate of value added tax base
10. Copy of certificate of place of sojourn (e.g. real estate lease agreement)
(When leased under the company's name: Submit confirmation of

residency/ provision of lodging)

※ The following are to be submitted when there are changes after incorporation

11. Original copy of specification of change of shareholders
12. Documents certifying introduction of investment funds (in the case of investment in cash)
 - Document certifying permission to carry out foreign currency issued by the tax office or bank of the investor's home country
 - Specification of introduction of investment funds (confirmation of remission, certificate of purchase of foreign currency, customs declaration form)
13. Copy of office lease contract



Additional information

Where the immigration office deems it necessary, the documents stated above maybe added or subtracted. Therefore, when additional documents are required according to the Enforcement Rule of the Immigration Act, such documents should be prepared.

124 I Calculation of period of sojourn and date of application for sojourn

Q

How is the period of sojourn calculated and on what day can application for sojourn be filed?

A

- The date on which the period commences is excluded.
- If the period of sojourn expires on a public holiday, the following day shall be the date of expiration. If the period of sojourn expires on a Saturday, the day after the following day shall be the date of expiration.
- As for permission for extension of period of sojourn, the extended period shall be from the following day of the date of expiration.
- Application for permission of sojourn can be made starting from four months before the date of expiration.

125 | Foreigners' obligation to enroll in National Health Insurance

Q

Does a foreigner who is an executive of a foreign-invested company obligated to enroll in National Health Insurance? (The foreigner frequently travels overseas for business and has no dependent families residing in Korea.)

A

In principle, all foreigners working for a place of business where the national health insurance program applies should enroll in the program. However, foreigners who meet certain conditions may become exempt from enrollment. It should be noted that de-enrollment is not possible if insurance premium has been paid at least once.



Additional information

● Special cases concerning foreigners¹⁶⁹⁾

- The government may arrange for separate health insurance for the workers at a workplace where a foreign government is the employer, in consultation with the foreign government.
- An overseas Korean national or a foreigner: A person who falls under any of the following who is an employee of a workplace where the employees become workplace-based insurance policyholders, a person who is employed or appointed as a public official or school employee (However, daily workers employed for a period of less than one month are excluded.)
 - * A person who completed alien registration
 - * A person who has reported his/her place of residence in Korea

● Foreigners' exemption from enrollment

- In the case that a foreigner is able to receive medical coverage under foreign law, a foreign insurance plan, or a contract with the employer, and the amount of the coverage is equal to or matches the amount of medical coverage provided under the National Health Insurance Act, the foreigner is exempted from enrollment in National Health Insurance.

¹⁶⁹⁾ Article 109 of the National Health Insurance Act

- How to apply for exclusion from enrollment: Submit a form of notification of disqualification for workplace-based insurance with the following documents attached:
 - Where the applicant is insured based on foreign laws and regulations or a foreign insurance plan:
 - * A document certifying that the applicant is eligible to receive medical benefits under foreign laws or regulations, or an insurance contract that certifies that he/she is eligible to receive medical benefits
 - * A document that bears the applicant's intention to de-enroll from National Health Insurance
 - * In the case that the applicant is insured based on a contract with the employer, etc.
 - * A document such as an employment contract, etc. certifying that the applicant is eligible to receive medical insurance
 - * A document certifying that medical expenses have been paid to workers in the workplace
 - * A document that bears the applicant's intention to de-enroll from National Health Insurance

126 | Foreigners' registration of seal imprint

Q

Can a foreigner residing in Korea register his/her seal imprint in order to make the procedure for real estate transaction, inauguration as executive of foreign-invested company, etc. more convenient?

A

A foreigner who has completed alien registration pursuant to the Immigration Control Act may register his/her seal imprint.

127 | Driver's license

Q

Can a foreigner exchange his/her foreign driver's license for a Korean one?

A

A foreigner who holds a driver's license issued by an authorized foreign agency can exchange his/her foreign driver's license for a Korean one after submitting a certificate from his/her home country's embassy proving the authenticity of the foreign driver's license and undergoing a physical exam and/or taking a written test.



Additional information

- A foreigner who was issued a driver's license from a country which recognizes Korean driver's license is only required to undergo a physical exam. To see the list of countries which recognize Korean driver's license, visit the Road Traffic Authority Driver's License Examination Office at <http://dl.koroad.or.kr>.
- To exchange a driver's license which was issued in a country which does not recognize Korean driver's license, the license holder should undergo a physical exam and take a written test. The written test has 40 questions, and foreigners can choose from the following languages: Korean, English, Chinese, Russian, Japanese, Taiwanese, Vietnamese, Indonesian, Cambodian, Filipino (Tagalog). The States of Oregon and Idaho recognize Korean driver's license but require a written test.
- When applying for exchange of a driver's license issued in a country that does not recognize the Korean driver's license, the written test is exempted for those with a D-8 (business investment) visa, their spouse and children under the age of 19.
- Only foreign driver's licenses that have not expired are considered valid, and temporary licenses, learner's permits, driving permits, etc. cannot be exchanged into a Korean license.

- **Documents to be submitted**

- Original copy of the foreign driver's license, original copy of passport, original copy of alien registration card, three color photo taken within the past six months (3.5x4.5cm), embassy's confirmation on authenticity of the driver's license, certificate of entry & exit (from year of birth to present), fee of KRW 12,500 (physical examination fee included)

※ KOTRA's Investment Consulting Center (ICC) does not have a physical examination center, so if you are visiting the ICC to exchange your foreign driver's license to a Korean one, receive a physical examination at the nearest designated hospital and submit the exam results (issuance fee: KRW 7,500).

128 | Changes in alien registration matters that require notification

Q ... When a foreigner's passport is re-issued, is notification required?

A ... In the case that a foreigner's passport number, passport issuance date or date of expiration has changed, he/she should notify the immigration control office.



Additional information

- Due date for notification: Within 44 days of the passport reissuance date if the passport was reissued in Korea. If it was reissued overseas, notification should be filed within 14 days of the date of entry into Korea.
- Documents required for notification of change: New passport, alien registration card, consolidated application form
- **In addition to the reissuance of a passport, the following changes are subject to notification to the immigration control office.**
 - Change in name, gender, date of birth and nationality
 - Change in D-1, D-2, D-4, D-5, D-6, D-7, D-8 and D-9 visa holders' organization (including change in organization's name)

- Registered foreigner should notify changes in alien registration matters to the immigration control office within 14 days of the date on which such changes occurred. Failure to file a notification within the deadline is a violation of Article 35 of the Immigration Control Act and shall result in a fine.

129 | Notification of change of place of sojourn

Q

If a foreigner changes his/her place of sojourn, is a notification of change of sojourn place required?

A

Yes.



Additional information

- If a registered foreigner has changed his/her place of sojourn, he/she should notify the immigration control office having jurisdiction over the sojourn place or the head of the relevant Si/Gun/Gu office within 14 days.
- Deadline for notification: Within 14 days of the change of place of sojourn
- Documents to submit: Passport, alien registration card, notification form, lease contract
- Failure to make a notification within 14 days of the date on which a change in place of sojourn has occurred is a violation of Article 36 of the Immigration Control Act and shall result in a fine of up to KRW 1 million.

130 | Child and infant welfare

Q ... Are the children of foreigners residing in Korea eligible for childcare subsidies?

A ... No. Only children who are Korean nationals are eligible for childcare subsidies (for daycare) offered by local governments.



Additional information

- The child and welfare system operated by local governments does not apply to foreigners who have completed alien registration.
- However, foreigners are eligible to use toy or book rental services.
 - How to use the service (in the case of Seoul residents): A parent can visit the Seoul metropolitan government childcare information center's Green Toy Library site (<http://www.seoultoy.or.kr>) and sign up for a membership under his/her name. After visiting the Green Toy Library and submitting the necessary documents, the membership holder can be changed to his/her child.
 - Availability: For children aged 72 months or younger
 - Membership fee: KRW 10,000
 - Documents to submit: Alien registration card, certificate of confirmation of alien registration, consent on the collection and use of personal information

131 | Medical care subsidies for pregnancy and childbirth

Q ... Are foreigners eligible for subsidies for medical expenses relating to pregnancy and childbirth?

A ... Yes, if a foreigner is insured or is a dependent under Korea's National Health Insurance scheme.



Additional information

- The Kukmin Haengbok card is a prepaid electronic voucher card for pregnant women which provides benefits to cover pregnancy and childbirth related medical expenses for the purpose of helping women deliver healthy babies and maintain pre- and post-natal health.
 - **About the Kukmin Haengbok card**
 - Eligibility: Women who have verified their pregnancy with a written confirmation of pregnancy and applied for such support, among the insured and their dependents under the National Health Insurance scheme
 - Scope of coverage: Medical expenses relating to pregnancy and childbirth
 - How to use the card: The card can be used to pay for medical expenses at a designated medical care institution in connection with pregnancy and childbirth.
 - Amount of benefits: KRW 500,000 per pregnancy (KRW 900,000 for multiple pregnancies)
 - Period of use: From the date of receiving the card to 60 days after the due date
- ※ The amount that has not been used within the above period shall expire.
- Where to submit an application:
 - * BC Card: Industrial Bank of Korea (IBK), Nonghyup Bank, Daegu Bank, Busan Bank, Kyongnam Bank, SC Bank, Suhyup Bank, Jeju Bank, Gwangju Bank, Jeonbuk Bank, Woori Card
 - * Samsung Card: Korea Federation of Community Credit Cooperatives, department stores (Shinsegae department store, Say department store), Samsung Card branches
 - * Lotte Card: Lotte department stores, Lotte Card branches
 - * A branch of the National Health Insurance Corporation
 - Required documents: Application form for support for payment of medical expenses for pregnancy and childbirth and written confirmation of pregnancy

132 | Returning the alien registration card

Q ...

A foreigner has to leave Korea because his/her dispatch period has expired, although his/her period of sojourn remains. In this case, what should the foreigner do with his/her alien registration card?

A ...

The alien registration card can be returned to an immigration control official at the airport when departing Korea



Additional information

If a registered foreigner departs from the Republic of Korea, the foreigner shall return his/her alien registration card to an immigration control official. However, this shall not apply where a foreigner who obtained a reentry permit intends to reenter within the permitted period after a temporary departure¹⁷⁰⁾.

133 | Lost or stolen cellphone

Q ...

What should be done when a cellphone is lost or stolen?

A ...

Contact your mobile service provider to report loss and suspend service (incoming calls can be answered).



Additional information

- Report loss and request originating call denial immediately to avoid excessive cellphone bills.

¹⁷⁰⁾ Article 37 (1) of the Immigration Control Act

- Korean cell phone carriers SK Telecom, KT and LG U+ provide location tracking services which require the customer's consent. However, if the cell phone is turned off, its location cannot be tracked.
- **What to do when your cell phone is lost**
 - 1) Android smartphones
 - Log onto Google Play website (www.google.com/android/devicemanager), sign into your account and check your phone's location
 - Android phones can be remotely locked or initialized to protect privacy data.
 - 2) iPhones
 - Log onto icloud.com/find and activate location finder and alarm
 - If your phone is stolen, it can be set to 'lost mode', which allows your phone to be remotely locked and the credit card payment function to be turned off.

134 | Emergency medical call

Q ... What number should I call in case of medical emergency?

A ... Dial 112 or 119 without an area code or call the BBB free interpretation service (1588-5644). Services are available 24 hours a day.



Additional information

- The 112 emergency call number provides phone interpretation service. The caller, 112 and an interpreter can make a 3-way call to receive and respond to the caller's request.
- You can call the 119 rescue service in case of fire or urgent medical situations to receive the same interpretation service as 112.
- **BBB free interpretation service**
 - Serviced languages: English, Japanese, Chinese, French, Spanish, Italian, German, Russian, Vietnamese, Thai, Swedish, Turkish, Polish

- Service hours: 24 hours
- Main phone number: 1588-5644
- Website: www.bbbkorea.org

135 | Issuance of a Korean credit card

Q ... Can a foreigner apply for a Korean credit card?

A ... Yes. A foreigner may apply for a Korean credit card by visiting a branch of a credit card company. The criteria for issuing a credit card differ by company.



Additional information

● How to apply for a credit card

- Eligibility: Foreigners who hold an alien registration card and are employed in Korea
- Required documents: Income certificate (recent three months), employee contract, alien registration card
- Issuance process: The credit card review team will evaluate the applicant's documents.
- If the application is rejected, a credit card can be issued by making a deposit at the applicable bank. Companies can apply for a credit card exclusively for foreign-invested companies (including newly established companies, Shinhan Bank)

136 | Korean language class

Q

Where can foreigners learn Korean, and are there free language classes?

A

Korean language schools in major universities, foreigner support centers and on-line courses offer Korean language classes.



Additional information

- Fee-based Korean classes

Institute of International Education, Kyung Hee University	http://eng.iie.ac.kr/
Korean Language Institute, Yonsei University	http://www.yskli.com/
Sogang University Korean Program	http://korean.sogang.ac.kr/
Korea University Institute of Foreign Language Studies	http://klc.korea.ac.kr/
Pusan International University International Language Institute	http://lei.pusan.ac.kr/_English/2001001.asp
Hansei University Korea Language Institute	http://www.hansei.ac.kr/
King Sejong Institute	http://www.sejonghakdang.org/
Easy Korean Academy	http://www.edukorean.com/english/

● Free Korean classes

Korean learning for correct pronunciation	http://www.korean.go.kr/hangeul/cpron/main.htm
Seoul Global Center	http://global.seoul.go.kr/
TalkTMe in Korean	http://www.talktomeinkorean.com/
KBS Let's Learn Korean	http://world.kbs.co.kr/english/program/program_learnkorean.htm

137 | Foreigner's subscription to mobile phone service

Q

What should a foreigner do to subscribe to mobile phone service in Korea?

A

Different qualifications apply depending on foreigners' status of sojourn, but in most cases, a foreigner can subscribe to a mobile phone service and purchase a phone by visiting any phone retail store, and the alien registration card is required for subscription.



Additional information

● Required documents

Individual	Company	Minors
Alien registration card	<ul style="list-style-type: none"> - Certificate of corporate seal - Copy of business registration certificate - Personal identification of the representative <p>※ When an agent applies for subscription: Letter of attorney (bearing corporate seal), agent's personal identification</p>	<ol style="list-style-type: none"> 1. When visiting in person: Alien registration card, certificate of seal of legal guardian, letter of consent to subscribe to mobile phone service, certificate of family registry 2. When a legal guardian of a minor over the age of 14 visits: Certificate of confirmation of alien registration, letter of consent to subscription, legal guardian's alien registration card and the subscribing minor

138 | Foreign investors' application for permanent residence

Q

Can foreign investors apply for permanent residence in Korea?

A

In accordance with the Foreign Investment Promotion Act, foreign investors investing USD 500,000 or more and employing five or more Korean workers can apply for permanent residence.



Additional information

● Guide to large investors' application for permanent residence

1. Eligible applicants (Attached Table 1 of the Enforcement Decree of the Immigration Control Act, 28-3 (c))

- Foreign investors who, at the time of application for permanent residence, have invested USD 500,000 or more and employed five or more Korean workers

2. Requirements

- The investment amount should be USD 500,000 or more in accordance with the Foreign Investment Promotion Act.

* Only the investor himself/herself is eligible to apply for permanent residence, and others such as the workers of the investor's company are not eligible for application. In the case of joint investments by two or more foreigners, each person should invest USD 500,000 or more.

- The investor should be an employer of Korean workers. (i.e., The investor is a party to an employment contract with Korean workers.)
- The investor should hire five or more Korean workers as regular workers for six months or longer

3. Documents to submit

- ① Application form, passport, alien registration card, processing fee
- ② Letter of guarantee
- ③ Foreign-invested company registration certificate
- ④ Certified copy of corporate registration, business registration certificate
- ⑤ Certificate of income amount (issued by tax office) of the investor and the Korean workers employed, documents certifying that the employed Korean workers are regular workers (e.g., employment contract, certificate of employment as regular worker)
- ⑥ Documents certifying place of residence (e.g. lease contract, confirmation of provision of lodging, letter notifying expiry of sojourn period, utility bills payment receipt, company dorm payment receipt)

* Note: For information on the investment immigration program operated by the Ministry of Justice, contact the Investment Immigration Center at Incheon International Airport (Tel: 82-32-740-7888, www.visa.go.kr)

139 | Confirmation of foreign public documents when filing for registration of incorporation of foreign-invested company

Q

Confirmation of foreign public documents when filing for registration of incorporation of foreign-invested company

A

In the case of countries that are members to the Apostille Convention, apostille certification is required. In the case of non-member countries, verification by the foreign affairs ministry and the Korean consulate of the document issuing country is required.



Additional information

● What is the apostille certification?

- For public documents to be recognized in a foreign country, legalization for use outside the country is required. Generally, the authenticity of public documents is verified by the relevant foreign consulate in the country where the documents are to be used.
- However, if an overseas consulate of the country where a document is to be used verifies the authenticity of the document, the process is very complicated and time consuming. In this regard, the applicant is required to obtain verification by the foreign affairs ministry of the foreign country before requesting the consulate's verification.
- To resolve such inconvenience, the Apostille Convention was concluded. The convention recognizes the use of a document issued in one of the signatory countries in all the other signatory states without the process of verification of the document by an overseas consulate.

● Procedure for verification of foreign public documents' authenticity

Non-members of the Apostille Convention	Members of the Apostille Convention
<p>Issuance of public document or notarized document</p> <p>→ Ministry of Foreign Affairs/ Ministry of Justice of the issuing country's verification</p> <p>→ Foreign consular office in Korea's verification</p> <p>→ Document submitted to relevant organization</p>	<p>Issuance of public document or notarized document</p> <p>→ Ministry of Foreign Affairs/ Ministry of Justice of the issuing country's verification</p> <p>→ Document submitted to relevant organization</p>

● Members to the Apostille Convention (113 countries as of Sep. 14, 2017)

Region	Members
Asia-Pacific Region (17)	Australia, China (Hong Kong, Macau), Japan, Republic of Korea, New Zealand, Brunei, Mongolia, Cook Islands, Fiji, India, Marshall Islands, Republic of Mauritius, Republic of Vanuatu, Samoa, Tonga, Niue, Tajikistan
Europe (52)	Greece, the Netherlands, Norway, Denmark, Germany, Latvia, Russia, Romania, Luxemburg, Lithuania, Liechtenstein, Macedonia, Monaco, Montenegro, Moldova, Malta, Belgium, Belarus, Bosnia and Herzegovina, , Bulgaria, San Marino, Serbia, Sweden, Switzerland, Spain, Slovakia, Slovenia, Armenia, Iceland, Ireland, Azerbaijan, Andorra, Albania, Estonia, United Kingdom, Austria, Uzbekistan, Ukraine, Italia, Georgia, Czech Republic, Kazakhstan, Cyprus, Turkey, Portugal, Poland, France, Finland, Hungary
North America (1)	United States (including Guam, Saipan, Puerto Rico)
Latin America (28)	Guatemala, Grenada, Nicaragua, Dominican Republic, Dominica, Mexico, Barbados, Bahamas, Venezuela, Belize, Brazil, Saint Lucia, Saint Vincent and the Grenadines, Saint Kitts and Nevis, Suriname, Argentina, Antigua and Barbuda, Ecuador, El Salvador, Honduras, Uruguay, Chile, Costa Rica, Colombia, Trinidad and Tobago, Panama, Peru, Paraguay

Africa (11)	Republic of South Africa, Botswana, Lesotho, Liberia, Namibia, São Tomé and Príncipe, Swaziland, Malawi, Cape Verde, Seychelles, Burundi
Middle East (4)	Morocco, Oman, Israel, Bahrain

140 | Immigration priority service for foreign investors

Q

Are there special benefits for foreign investors (D-8 visa holders) in the immigration process?

A

Yes. D-8 visa holders can use the fast-track immigration lane at the airport without having to present the Immigration Priority Card.



Additional information

- The employees and executives of the overseas parent company of foreign-invested companies who do not have a D-8 visa can also enjoy the same benefits through issuance of the Immigration Priority Card
- **About the Immigration Priority Card**
 - What is the Immigration Priority Card?
 - * The Immigration Priority Card is issued by the Ministry of Justice to make the immigration process more convenient.
 - * KOTRA is one of the agencies that are delegated to select recipients of the Immigration Priority Card, and card issuance application can be filed from the foreign investor, etc.
 - * Immigration Priority Card holders can use the fast-track immigration lane (the one for flight crew and diplomats) for an expedited immigration process.

※ Validity of the card: 3 years (since the date of issuance)

– Eligibility

- ① The executives and employees of overseas parent companies or Asia regional headquarters that meet the following minimum investment requirements (notification-based FDI amount)

Business category	Minimum investment amount (notification-based)
Manufacturing	USD 15 million
Finance and insurance	USD 50 million
Wholesale & retail, transport & storage	USD 5 million
Others	USD 10 million
Operation of an R&D center	USD 2 million
Businesses accompanying new growth driver industry technology	

※ When applying for reissuance after the card's expiration date, the ratio of FDI on arrival basis to FDI on notification basis should be 50% or more

- ② Executives and employees of the overseas parent company or Asia regional headquarters of foreign-invested companies with full-time employees of 100 or more
- ③ Executives and employees of foreign economic organizations in Korea
- ④ Members of investment delegations invited by related central administrative organizations or local autonomous bodies

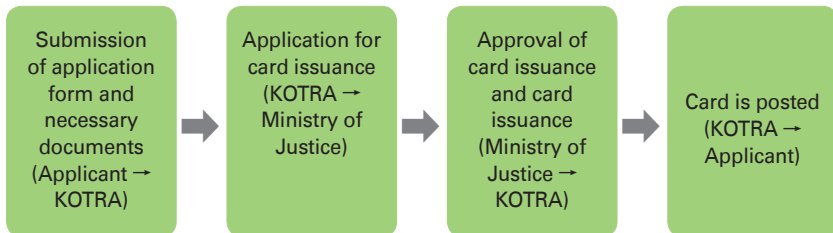
Documents to submit

1. Application form for immigration priority card
2. One of the following documents:
 - * Executives and employees of overseas parent company or Asia regional headquarters of foreign-invested companies: Copy of foreign invested company registration certificate
 - * Executives and employees of foreign economic organizations in Korea: Certified copy of corporate registration
 - * Members of investment delegations invited by central administrative

organizations or local autonomous bodies: Letter of invitation

3. Certificate of employment at an overseas parent company of a foreign-invested company or Asia regional headquarters (or documents confirming that the applicant for the card belongs to the company or organization eligible for card issuance)
4. One of the following documents:
 - * Companies operating an R&D center: Certificate of recognition of company-affiliated research institute or certificate of recognition of research & development department (or official letter of designation as a research & development facility by the Ministry of Trade, Industry & Energy)
 - * In the case of companies accompanying new growth driver industry technology, an official letter from the Ministry of Strategy and Finance on the decision to grant tax reduction/exemption
 - * In the case of companies employing 100 or more full-time employees, a list of the employees insured by the business establishment or a report on status of tax withholding issued by a tax office
5. Copy of applicant's passport

- Issuance Procedure



※ Application and inquiries: KOTRA's Investment Consulting Center (82-2-3497-1971)

141 | Sojourn status for dispatched employees for foreign-invested companies

Q

Can the employee of the parent company of a foreign-invested company dispatched to the foreign-invested company apply for a D-8 visa?

A

Indispensable professional specialists planning to work in the field of management, business administration, production or technology of a foreign-invested company as prescribed by the Foreign Investment Promotion Act may apply for a D-8 visa.



Additional information

● Indispensable professional specialists

– Executives

An “executive” refers to a person who has primary control over organizational management and exercises extensive rights in the decision-making process. As one of the highest members of a company, an “executive” is generally directed and supervised exclusively by the Board of Directors and shareholders. (An executive shall not be directly involved in the provision of services or the organization’s service-related business.)

– Senior Manager

A “senior manager” refers to a person who is responsible for the establishment and execution of a company’s or a department’s objectives and policies; has the right to set up plans, lead employees and supervise business operations; executes the right to employ, dismiss and recommend employees; decides, supervises or controls the work carried out by employees in supervisory, professional or administrative positions; or has discretionary authority over everyday business. Frontline supervisors (except for professional service providers) or employees directly engaged in the provision of services do not fall into this category.

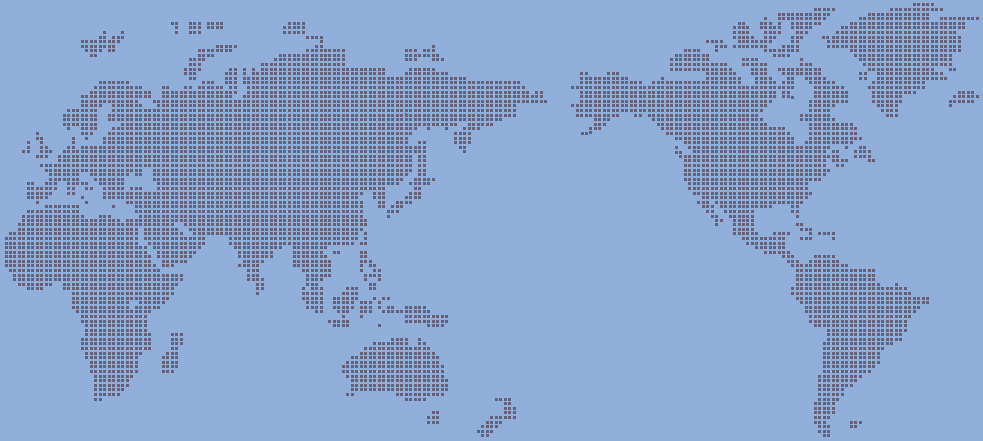
– Specialist

A “specialist” refers to a person who has highly professional and monopolistic experience and knowledge essential for research, design, technology and management concerning the service provided by the company.

※ Foreigners employed in Korea are not considered indispensable professional specialists. Providers of general administrative service, engineers who can be replaced with Koreans or employees directly engaged in the provision of services are excluded as well.

Q&A

on FDI in Korea

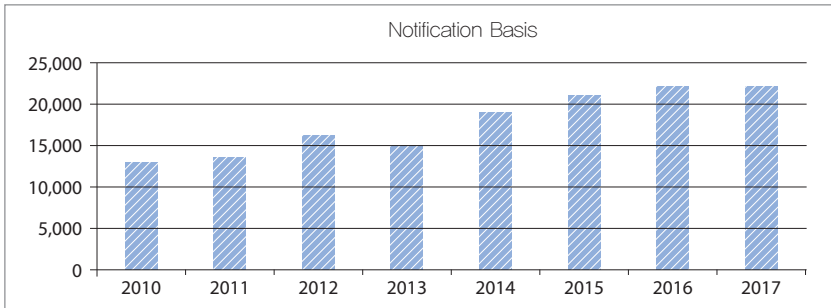


Appendix | Basic Information on Investing in Korea

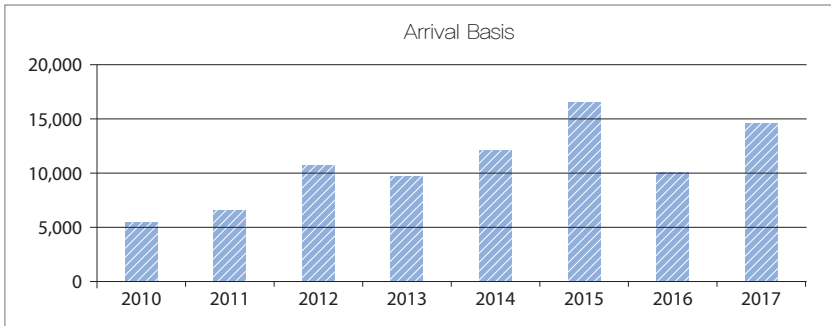
* This section is a summary of the '50 Questions Foreign Investors Most Frequently Ask' in the UNCTAD Survey of Best Practices in Investment Promotion

1. Inbound Foreign Investment

(Unit: USD 1 million)



(Unit: USD 1 million)



2. Restrictions and Prohibitions on Foreign Investment

● Unpermitted Category of Business

- Business categories in which foreign investment is not permitted have public features, and hence there are difficulties in applying the Foreign Investment Promotion Act. The prohibition of foreign investment in the said categories is notified by the Regulations on Foreign Investment and Technology Introduction and Consolidated Public Notice for Foreign Investment.

[Unpermitted Category of Business]

- Postal services, central banking, individual mutual aid organizations, pension funding, administration of financial markets, services supporting financial businesses, etc.
- Legislative, judiciary, administrative bodies, foreign embassies, extra-territorial organizations and bodies
- Education (pre-school, primary, secondary, universities, graduate schools, schools for the handicapped, etc.)
- Artists, religious groups, business, professional, environmental advocacy, political, and labor organizations

● Restricted Category of Business

- In principle, foreign investment is not permitted in restricted categories of business as well. However, when there are standards for permission, foreign investment is partially permitted. The restriction of foreign investment is notified by the Regulations on Foreign Investment and Technology Introduction and the Consolidated Public Notice for Foreign Investment.
- No foreigner shall make an investment in any company concurrently running both a category of business in which foreign investment is not permitted and a category of business in which foreign investment is only partially permitted. And where intending to make an investment in any company running not less than two categories of business in which foreign investment is only partially permitted, a foreigner shall be prohibited from making an investment in the company in excess of the ratio of foreign investment in the category of business in which the ratio of permissible foreign investment is lowest.
- Regulations on foreign investment (Public notice by the Ministry of Trade, Industry & Energy, amended Sep. 22, 2016)
 - * Attached Table no.1 (unpermitted category of business) and no.2 (restricted category of business) will be reflected to the regulations after the Foreign Investment Promotion Act is amended in the second half of 2018.

[Businesses where foreign investment is restricted (including 3 unpermitted categories) and standards for permission (Regulations on Foreign Investment amended July 6, 2018)]

Category of Business (KSIC)	Standards for Permission	Competent Authorities
Growing of cereal crops and other food crops (01110)	The cultivation of rice and barley is prohibited	The cultivation of rice and barley is prohibited
Farming of beef cattle (01212)	Permitted where the foreign investment ratio is less than 50%	Ministry of Agriculture, Food and Rural Affairs
Manufacture of other basic inorganic chemicals (20129)	Permitted with the exception of the manufacture and distribution of nuclear fuel	Ministry of Trade, Industry and Energy
Manufacture of other smelting, refining and alloys of non-ferrous metals (24219)		
Nuclear power generation (35111)	Prohibited	Ministry of Trade, Industry and Energy
Hydroelectric power generation (35112) Fire power generation (35113) Solar power generation (35114) Other power generation (35119)	The sum of power plant facilities purchased by foreigners from the Korea Electric Power Corporation (KEPCO) must not surpass 30% of the total domestic power plant facilities ※ Applicable only to electricity purchased by KEPCO (and its subsidiaries)	Ministry of Trade, Industry and Energy
Transmission and distribution of electric power (35120) Trade of electricity (35130)	Permitted where the following conditions are met: 1. The foreign investment ratio is less than 50% 2. The stocks with voting rights owned by foreign investors are less than the stocks held by the largest domestic shareholder ※ Trade of electricity: Applicable only to electricity sales business under the Electricity Business Act	Ministry of Trade, Industry and Energy

Category of Business (KSIC)	Standards for Permission	Competent Authorities
Disposal of radioactive waste (38240)	Radioactive waste management business under Article 9 of the Radioactive Waste Control Act is prohibited	Ministry of Trade, Industry and Energy
Wholesale of meat (46313)	Permitted where the foreign investment ratio is less than 50%	Ministry of Agriculture, Food and Rural Affairs
Coastal water passenger transport (50121) Coastal water freight transport (50122)	Permitted where all of the following conditions are satisfied: 1. Transport of passengers or freight between South and North Korea 2. Joint venture with a shipping company of the Republic of Korea 3. The foreign investment ratio is less than 50%	Ministry of Oceans and Fisheries
Passenger air transport (51100) Freight air transport (51200)	Permitted where the foreign investment ratio is less than 50% * The Ministry of Land, Infrastructure and Transport classifies air transportation businesses into international air transportation (51), domestic air transportation (51) and small air transportation (51) business regardless of regular or non-regular air transportation.	Ministry of Land, Infrastructure and Transport
Publication of newspapers (58121)	Permitted where the foreign investment ratio is less than 50% (less than 30% for daily newspapers)	Ministry of Culture, Sports and Tourism
Publication of magazines and periodicals (58122)	Permitted where the foreign investment ratio is less than 50%	Ministry of Culture, Sports and Tourism
Radio broadcasting (60100)	Prohibited	Korea Communications Commission
Over-the-air broadcasting (60210)	Prohibited	Korea Communications Commission

Category of Business (KSIC)	Standards for Permission	Competent Authorities
Program distribution (60221)	<p>Permitted where the foreign investment ratio is 49% or less (20% or less in the case of general programming channel operators or program providers and 10% or less in the case of news channel operators)</p> <p>※ 'Program providers' refers to program providing business operators under the Broadcasting Act.</p> <p>However, in the case of program providing business operators excluding operators of general programming channels or news channels and operators of channels that engage in featuring and selling products, a company whose stocks or shares are owned by the government, organization or individual of a counterpart country to a bilateral or multilateral free trade agreement with Korea designated by the Minister of Science and ICT shall not be deemed a foreign fictitious company as prescribed by Article 14 (1) 3 of the Broadcasting Act.</p> <p>※ For more information, refer to the relevant free trade agreement.</p>	Ministry of Science and ICT Korea Communications Commission
Cable networks (60222)	Permitted where a cable system operator's foreign investment ratio is 49% or less (20% or less in the case of relay cable operators)	Ministry of Science and ICT
Broadcasting via satellite and other forms of broadcasting (60229)	Permitted where the foreign investment ratio is 49% or less (20% or less in the case of Internet multimedia broadcasting content providers that operate general programming channels or news channels)	Ministry of Science and ICT

Category of Business (KSIC)	Standards for Permission	Competent Authorities
Broadcasting via satellite and other forms of broadcasting (60229)	<p>However, in the case of Internet multimedia broadcasting content providers excluding operators of general programming channels or news channels and operators of channels that engage in featuring and selling products, a company whose stocks or shares are owned by the government, organization or individual of a counterpart country to a bilateral or multilateral free trade agreement with Korea designated by the Minister of Science, ICT and Future Planning shall not be deemed a foreign fictitious company as prescribed by Article 9 (2) 3 of the Internet Multimedia Broadcast Services Act.</p> <p>※ For more information, refer to the relevant free trade agreement.</p>	
Wired telecommunications (61210)	<p>Permitted where the sum of shares (limited to voting shares, including depositary receipt (DR) and other share equivalents and equity interests) held by a foreign government or a foreigner (including a fictitious corporation of foreigners) is 49% or less of the total issued shares of the company. (Foreigners are not allowed to become a majority shareholder of KT. However, they may invest in KT if they own less than 5% of the total shares.)</p> <p>※ Foreign fictitious company: A company whose largest shareholder is a foreign government or a foreign national (including a specially-related person as referred to in Article 9 (1) 1 of the Financial Investment Services and Capital Markets Act), where not less than 15/100 of the gross number of whose issued stocks is owned by the said foreign government or foreigner.</p>	Ministry of Science and ICT

Category of Business (KSIC)	Standards for Permission	Competent Authorities
Wired telecommunications (61210)	<p>However, foreign fictitious companies of a country that is a counterpart to a bilateral or multilateral free trade agreement with Korea designated by the Minister of Science, ICT and Future Planning (Korea-U.S. FTA, Korea-EU FTA, Korea-Canada FTA, Korea-Australia FTA), which are determined by the Minister as not likely to harm public interest shall not be deemed a foreigner.</p> <p>※ For more information, refer to the relevant free trade agreement.</p>	Ministry of Science and ICT
Wireless and satellite telecommunications (61220)	Same as the permission standards for wired telecommunications	
Other electronic communications (61299)	Same as above (No restrictions for supplementary communications business [61299])	
News agency business (63910)	Investment is permitted where the foreign investment ratio is less than 25%.	Ministry of Culture, Sports and Tourism
Domestic commercial bank (64121)	Permitted with the exception of the National Agricultural Cooperative Foundation (finance) under the Agricultural Cooperative Act and the National Federation of Fisheries Cooperative (finance) under the Fisheries Cooperatives Act.	<ul style="list-style-type: none"> - Ministry of Agriculture, Food and Rural Affairs - Ministry of Oceans and Fisheries - Financial Services Commission

3. Countries Having Tax Treaties with Korea (As of June 2018)

[Agreements in effect (93 countries)]

Albania	('07. 01. 13)	Hong Kong	('16. 09. 27)	Panama	('12. 04. 01)
Algeria	('06. 08. 31)	Hungary	('90. 04. 01)	Papua New Guinea	('98. 04. 21)
Arab Emirates	('05. 03. 09)	Iceland	('08. 10. 23)	Peru	('14. 03. 03)
Australia	('84. 01. 01)	India	('86. 08. 31)	Philippines	('86. 11. 09)
			('16. 09. 12)		
Austria	('87. 12. 01)	Indonesia	('89. 05. 03)	Poland	('92. 02. 21)
	('02. 03. 30)				('16. 10. 15)
Azerbaijan	('08. 11. 25)	Iran	('09. 12. 08)	Portugal	('97. 12. 21)
Bahrain	('13. 04. 26)	Ireland	('91. 12. 27)	Qatar	('09. 04. 15)
Bangladesh	('84. 08. 22)	Israel	('97. 12. 13)	Romania	('94. 10. 06)
Belarus	('03. 06. 17)	Italia	('92. 07. 14)	Russia	('95. 08. 24)
			('15. 01. 23)		
Belgium	('79. 09. 19)	Japan	('70. 10. 29)	Saudi Arabia	('08. 12. 01)
	('15. 12. 01)		('99. 11. 22)		
Brazil	('91. 11. 21)	Jordan	('05. 03. 28)	Serbia	('16. 11. 17)
	('18. 01. 10)				
Brunei	('16. 10. 14)	Kazakhstan	('99. 04. 09)	Singapore	('81. 02. 11)
					('13. 06. 28)
Bulgaria	('95. 06. 22)	Kenya	('17. 04. 03)	Slovakia	('03. 07. 08)
Canada	('80. 12. 19)	Kuwait	('00. 06. 13)	Slovenia	('06. 03. 02)
	('06. 12. 18)		('10. 12. 27)		
Chile	('03. 07. 25)	Kyrgyzstan	('13. 11. 22)	South African Republic	('96. 01. 07)
China	('94. 09. 28)	Laos	('06. 02. 09)	Spain	('94. 11. 21)
	('06. 07. 04)				
Colombia	('14. 07. 03)	Latvia	('09. 12. 26)	Sri Lanka	('86. 06. 20)
Croatia	('06. 09. 15)	Lithuania	('07. 07. 14)	Sweden	('82. 09. 09)
Czech Republic	('95. 03. 03)	Luxemburg	('86. 12. 26)	Swiss	('81. 04. 22)
			('13. 09. 04)		('12. 07. 25)
Denmark	('79. 01. 07)	Malaysia	('83. 01. 02)	Tajikistan	('16. 09. 28)
Egypt	('94. 02. 05)	Malta	('98. 03. 21)	Thailand	('77. 10. 12)
					('07. 06. 29)
Ecuador	('13. 10. 16)	Mexico	('95. 02. 11)	Tunisia	('89. 11. 25)
Estonia	('10. 05. 25)	Mongolia	('93. 06. 06)	Turkey	('86. 03. 27)
Ethiopia	('17. 10. 31)	Morocco	('00. 06. 16)	Turkmenistan	('16. 11. 26)
Fiji	('95. 02. 17)	Myanmar	('03. 08. 04)	U.K.	('78. 05. 13)
					('96. 12. 30)
Finland	('81. 12. 23)	Nepal	('03. 05. 29)	U.S.	('79. 10. 20)
France	('81. 02. 01)	Netherlands	('81. 04. 17)	Ukraine	('02. 03. 19)
	('92. 03. 01)		('99. 04. 02)		

Gabon ('15. 12. 02)	New Zealand ('83. 04. 22) ('97. 10. 10)	Uruguay ('13. 01. 22)
Georgia ('16. 11. 17)	Norway ('84. 03. 01)	Uzbekistan ('98. 12. 25)
Germany ('78. 05. 04) ('02. 10. 31)	Oman ('06. 02. 13)	Venezuela ('07. 01. 15)
Greece ('98. 07. 10)	Pakistan ('87. 10. 20)	Vietnam ('94. 09. 09)

[Signatories (2 countries)]

Sudan ('04. 09. 09)	Nigeria ('06. 11. 06)	
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[Amended agreements (1 country)]

Czech Republic ('18. 01. 12)		
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4. Countries with Tax Information Exchange Agreement with Korea (As of June 2018)

[Agreements in effect (11 countries)]

Andorra ('16. 12. 21)	British Virgin Islands ('16. 11. 21)	Mauritius ('17. 04. 13)
Bailiwick of Guernsey ('16. 12. 21)	Cook Islands ('12. 03. 05)	Republic of Vanuatu ('17. 06. 08)
Bailiwick of Jersey ('16. 11. 21)	Hong Kong ('16. 09. 27)	Samoa ('16. 11. 22)
Bermuda ('15. 02. 13)	Marshall Islands ('12. 03. 09)	The Bahamas ('13. 07. 15)

[Signatories (1 country)]

Costa Rica ('16. 10. 12)		
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5. Multilateral Competent Authority Agreement with Korea

(As of June 2018)

[Multilateral competent authority agreements in effect (121 countries)]

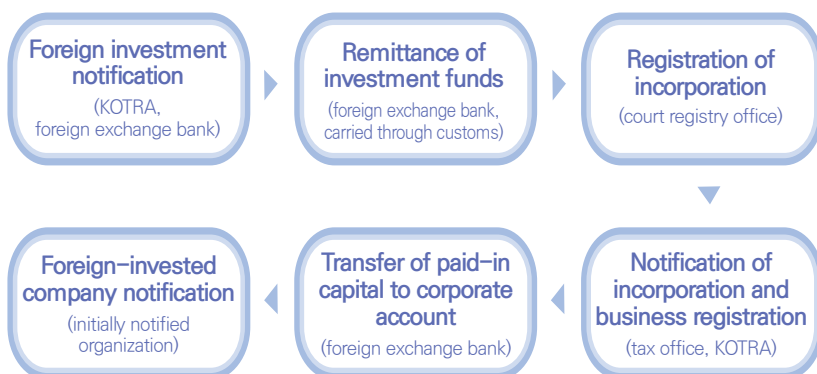
In Korea, the Agreement came in effect on Jul. 1, 2012

Albania	Cyprus	Kazakhstan
Andorra	Czech Republic	Kenya
Anguilla	Denmark	Kuwait
Arab Emirate	Dominican Republic	Latvia
Argentina	El Salvador	Lebanon
Armenia	Estonia	Liechtenstein
Aruba	Faroe Island	Lithuania
Australia	Finland	Luxemburg
Austria	France	Macau
Azerbaijan	Gabon	Malaysia
Bahrain	Georgia	Malta
Bailiwick of Jersey	Germany	Marshall Islands
Barbados	Ghana	Mauritius
Belgium	Gibraltar	Mexico
Belize	Great Britain	Moldova
Bermuda	Greece	Monaco
Brazil	Greenland	Montserrat
British Virgin Islands	Grenada	Morocco
Brunei	Guatemala	Nauru
Bulgaria	Guernsey	Netherlands
Burkina Faso	Hong Kong	New Zealand
Cameroon	Hungary	Nigeria
Canada	Iceland	Niue
Cayman Islands	India	Norway
Chile	Indonesia	Pakistan
China	Ireland	Panama
Columbia	Isle of Man	Paraguay
Cook Islands	Israel	Peru
Costa Rica	Italia	Philippines
Croatia	Jamaica	Poland
Curacao	Japan	Portugal

Qatar	Saudi Arabia	Swiss
Republic of Seychelles	Senegal	The Bahamas
Romania	Singapore	Tunisia
Russia	Sint Maarten	Turkey
Saint Kitts-Nevis	Slovakia	Turks and Caicos Islands
Saint Lucia	Slovenia	U.S.
Saint Vincent and the Grenadines	South African Republic	Uganda
Samoa	South Korea	Ukraine
San Marino	Spain	Uruguay
	Sweden	

6. Foreign Investment Procedure

- The foreign investment procedure consists of foreign investment notification, remittance of investment funds, registration of incorporation & business, and registration of a foreign-invested company. The procedures applied to foreigners are basically the same as for Koreans with the exception of two additional steps: foreign investment notification and registration of a foreign-invested company.



7. Restrictions on Foreign Investors' Stock Ownership

- A foreign-invested company shall not conduct any of the following acts (Article 22 (3), (4) of the Foreign Investment Promotion Act and Article 29 (2) of the Enforcement Decree of the same Act):

(1) Conducting a business in which foreign investment is restricted, beyond the permitted limit.

<Exception> Permitted where the foreign investment ratio is below 10 percent

(2) Acquiring the stocks or shares of another domestic company which conducts business, beyond the allowed limit, where foreign investment is restricted.

<Exception> In the following cases, acquisition of stocks or shares are permitted as an exception:

A. Where a company, whose foreign investment ratio is less than 50 percent and its largest shareholder is not a foreign investor (including specially related persons under Article 7 (1) of the Enforcement Decree of the Foreign Investment Promotion Act), acquires the stocks or shares of a domestic company

B. Where a foreign-invested company, which partially or entirely engages in the acquisition of the stocks or shares of another company while operating a finance or insurance business (excluding private equity funds under Article 9 (18) 7 of the Financial Investment Services and Capital Markets Act), acquires the stocks or shares of another company in accordance with another law.

C. Where 10 percent or less of a domestic company's total outstanding shares or total equity investment is acquired

(3) Using the investment funds for a purpose other than those that have been notified or approved

8. Measures to Promote Foreign Investment

● Liberalization of Foreign Investment

- Except as otherwise prescribed by the Acts of the Republic of Korea, a foreigner may conduct, without restraint, various activities of foreign investment in the Republic of Korea. Foreigners are restricted from foreign investment in the following cases: where it threatens the maintenance of national safety and public order; where it has harmful effects on public hygiene or environmental preservation or is against Korean morals and customs; and where it violates the Acts and subordinate statutes of the Republic of Korea.

● Protection of Foreign Investment

- Protection of foreign direct investment has become stronger than that of indirect investment such as investment in securities and bonds, as prescribed by the Foreign Investment Promotion Act.

(1) Guarantee of Remittance to Foreign Countries

With respect to the proceeds that come from the stocks, etc. acquired by a foreign investor, proceeds from the sales of stocks, etc., the principal, interests, and service charges paid in accordance with the loan contract as prescribed by the Foreign Investment Promotion Act, and the compensation paid in accordance with a license agreement, their remittance to foreign countries shall be guaranteed in accordance with the details of the permission or notification of the foreign investment contract or the license agreement at the time when the said remittance is made.

(2) Exceptions to the Safeguard Clause on Foreign Currency Transactions

The Minister of Strategy and Finance may temporarily suspend or restrict foreign exchange transactions, if such measures are deemed inevitable on account of the outbreak of natural calamities, war, conflicts of arms, grave and sudden changes in domestic and foreign economic conditions, or other situations equivalent thereto (Article 6 (1)-(3) of the Foreign Exchange Transactions Act). However, such measures shall not apply to foreign investment as provided for in the Foreign Investment Promotion Act (Article 6 (4) of the Foreign Exchange Transactions Act).

(3) National Treatment

Except as otherwise prescribed by the Acts of the Republic of Korea, foreign investors and foreign-invested companies shall be treated in the same way as

nationals of the Republic of Korea and Korean corporations in respect of their business operation.

● Regulatory Information Service for Foreign Investors

- The regulatory information service for foreign investors provides information on proposed laws related to foreign investment through the website of the Office of the Foreign Investment Ombudsman (www.i-ombudsman.go.kr) before they are legislated in order to collect and reflect the opinions of foreign investors and foreign-invested companies.
- The regulatory information service provides English translations of proposed new and amended laws and receives opinions on existing and proposed laws. If an opinion or suggestion on improvement of unreasonable regulations is submitted, a reply is provided within 14 days. The Regulatory Information Portal also provides updates on regulatory improvements.
- The service enables foreign investors to actively participate in the legislation process and lets their opinions be reflected to regulations.

9. Intellectual Property Rights (Patent Right, Copyright, etc.)

Intellectual property rights are defined as the legal rights bestowed upon a person's intellectual creation that is considered worthy of receiving legal protection. Intellectual property rights can be largely classified into industrial property rights and copyrights. With the advance of technology and culture, new forms of intellectual property rights are emerging such as trade secret rights and semiconductor layout rights. Industrial property rights and copyrights are governed by the Korean Intellectual Property Office and the Ministry of Culture, Sports and Tourism, respectively, in Korea.

● Protection of Intellectual Property Rights

- Korea's intellectual property rights protection policies are comparable to that of advanced countries.
- Korea's intellectual property rights laws include Industrial Property Laws (Patent Act, Trademark Act, Design Protection Act, Utility Model Act), Copyright Act, and New Intellectual Property Rights Laws (Laws on high technology industry property rights and information industry property rights).

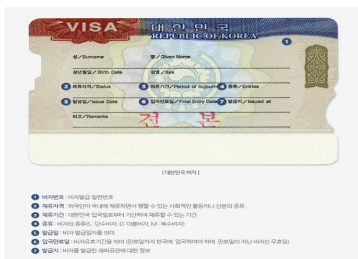
- The Korean government is cooperating with local governments, the prosecutor's office and the police to better prevent the piracy of patented products. Also, the government is strengthening the protection of intellectual property rights by establishing a patent dispute forecast system that provides the latest news on patent disputes from major countries.
- As a result of continuous implementation of policies for improving the intellectual property rights system, Korea was excluded from the U.S. Trade Representative's annual Watch List for the first time in 20 years in 2009 and has maintained that status for 10 years.

10. Foreigners' Entry into Korea and Sojourn

※ Relevant laws: Articles 10, 11, 12 of the Immigration Control Act, Article 12 of the Enforcement Decree of the Act, Attached Table 1 of the Act)

● Visa

- In principle, foreigners should receive a visa from a Korean embassy or consulate to enter Korea.
- The Republic of Korea treats the entry visa merely as a 'consul's recommendation for a foreigner's entry'. Usually, a visa is issued in the form of a sticker or a rubber stamp in a passport.
- On the visa page, the status of sojourn and the period of sojourn and type of visa, etc. are stated.
- The types of visas include a single-entry visa (S), double-entry visa (D) and multiple-entry visa (M)
- Short-term visas, which are issued by the authority of the consul, are issued rapidly at a Korean embassy or consulate, but visas that are not delegated to the consul (e.g. long-term visa, visas requiring the approval of the Minister of Justice) may require some time to get issued.



● Electronic visa

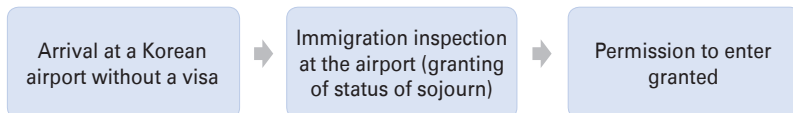
- An electronic visa is a visa issued on-line without having to visit an embassy or consulate. It is issued by the head of an office with an electronic visa center.
- An application for an electronic visa can be made at the visa portal (www.visa.go.kr). An electronic visa will be issued after a screening process.
- A foreigner who applied for electronic visa issuance can print out a confirmation of electronic visa issuance and then enter the country.
- An electronic visa is issued to group tourists, medical tourists, professors, researchers, technology instructors, professionals.

● Fee for visa issuance

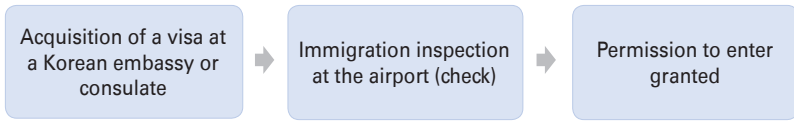
- Single-entry visa for sojourn period of 90 days or less: USD 40; Single-entry visa for sojourn period of 91 days or more: USD 60
- Multiple-entry visa allowing entry for up to two times: USD 70
- Multiple-entry visa allowing limitless entry: USD 90
- The visa issuance fee is subject to change due to international agreements, etc. and the fee can be exempted depending on agreements.

● How to enter Korea

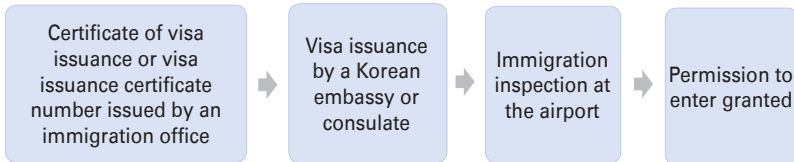
- 1) A foreigner may enter Korea without a visa and undergo an entry inspection at the port of entry to obtain the status of sojourn and the maximum period of sojourn.



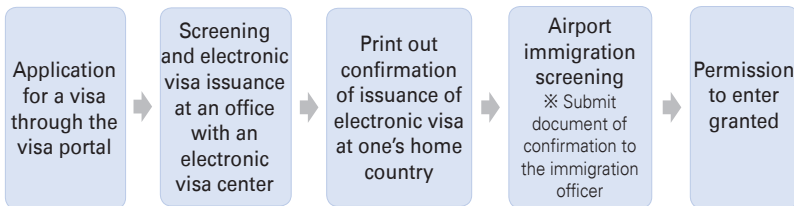
- 2) A foreigner may enter Korea by holding a visa issued at a diplomatic mission abroad.



- 3) In the event that the authority for issuing visas is not delegated to the head of the diplomatic mission abroad, a foreign national may enter Korea after he/she obtains a visa issuance certificate (or a visa issuance certificate number) issued by the immigration office having jurisdiction over the inviter's place of sojourn and receives a visa by presenting the said certificate to the diplomatic mission abroad.



- 4) A foreigner may enter Korea by obtaining an electronic visa.



● Foreigners' sojourn in Korea

- A foreigner who intends to enter Korea should possess a valid passport and visa issued by the Minister of Justice, and also have been granted the status of sojourn prescribed by presidential decree
- A foreigner should also not fall under the causes for restriction of entry as prescribed by the Minister of Justice and receive immigration screening by an immigration officer at the port of entry and departure.

● Type of sojourn statuses and types of activities permitted

- The status of sojourn is categorized into alphabets and numbers depending on the types of activities permitted for foreigners and their status in Korea.
A foreigner's status of sojourn is stated on his/her visa or alien registration card.

- Depending on the status of sojourn, a short-term visa (B, C categories) may be changed to long-term visas (※ A fee is imposed for the change).
- There are a total of 36 sojourn statuses (categories A, B, C, D, E, F, G, H) and foreign investors (indispensable professional workforce) qualify as corporate investment (D-8).

Classification of sojourn statuses	Scope of indispensable professional workforce
<ul style="list-style-type: none"> - Category A (diplomacy, public affairs, treaty) - Category B (visa-exempted persons, persons who can enter without a visa) - Category C (short-term news coverage, short-term stay, short-term employment) - Category D (study, training, news coverage, religious activity, corporate investment, trade and management, marriage immigration) - Category G (Others) - Category H (tourism employment, employment) 	<ul style="list-style-type: none"> - Executive: An "executive" refers to a person who has primary control over organizational management and exercises extensive rights in the decision-making process. As one of the highest members of a company, an "executive" is generally directed and supervised exclusively by the Board of Directors and shareholders. (An executive shall not be directly involved in the provision of services or the organization's service-related business.) - Senior Manager: A "senior manager" refers to a person who is responsible for the establishment and execution of a company's or a department's objectives and policies; has the right to set up plans, lead employees and supervise business operations; executes the right to employ, dismiss and recommend employees; decides, supervises or controls the work carried out by employees in supervisory, professional or administrative positions; or has discretionary authority over everyday business. Frontline supervisors (except for professional service providers) or employees directly engaged in the provision of services do not fall into this category.

-Specialist: A “specialist” refers to a person who has highly professional and monopolistic experience and knowledge essential for research, design, technology and management concerning the service provided by the company.

● FAQ on the corporate investment (D-8) visa

- 1) **Q.** If a foreigner with a D-8 visa is ordered by his/her company headquarters to work at or manage or supervise 10 of the company's subsidiaries in Korea, can the foreigner work at all 10 places?
A. Yes, the foreigner can state all 10 companies as his/her workplace.
- 2) **Q.** A foreigner with a D-8 visa working for company A received a dispatch order to work at a subsidiary company B. In this case can the change of workplace be permitted?
A. Yes, the foreigner's workplace can be changed.
- 3) **Q.** A foreigner with a D-8 visa received an order to additionally work for a foreign company's Korean branch or liaison office while staying in Korea. Is this possible?
A. Yes, the foreigner can obtain permission to engage in activities outside his/her status of sojourn with an intra-company transfer (D-7) visa.
Q. When dismissing a worker, a notice should be given at least 30 days prior to the actual dismissal. If not, the employer is obligated to pay more than 30 days' worth of ordinary wage. A foreigner invested KRW 100 million in Korea and established company A. As business prospered, the company invested an additional KRW 100 million in accordance with the Foreign Investment promotion Act and established another company B. In this case what does the foreigner need?
A. Company B can be recognized as a subsidiary of company A, and the foreigner can add his/her workplace.

11. Labor Environment

● Labor law

- There are various laws in Korea for protecting the rights of workers and promoting their welfare. Such laws include the Labor Standards Act enacted to enhance the lives of workers and promote a balanced national economy, and the Minimum Wage Act for the guarantee of workers' minimum wage.

● Laws on dismissal

- When dismissing a worker, a notice should be given at least 30 days prior to the actual dismissal. If not, the employer is obligated to pay more than 30 days' worth of ordinary wage.

● Working conditions in Korea

Statutory Work Hours Per Week	Maternity Leave	National Holidays Per Year	Work-free Saturday System
40 hrs	90 days	16 days	In effect

Source: Ministry of Employment & Labor, Korea Ministry of Government Legislation

| Note |

- 1) Out of the 90-day maternity leave, at least 45 days should be used after giving birth. Maternity leave can be used up to 45 days before the due date.
- 2) The number of annual national holidays includes Labor Day, and does not include weekend holidays.

12. Environmental Regulations

Korea has established and implemented various environmental regulations. The environmental regulations imposed on companies are as follows:

- **Regulations imposed on companies discharging environmental pollutants**
 - Regulations on installment and operation of air, water and noise pollutants emission facilities and waste disposal facilities
 - Integrated management of environmental pollutant emission facilities
 - Regulations on the designation and training of environmental engineers
 - Regulations applied on the four major river areas
- **Regulations imposed on companies importing, recycling and disposing wastes**
 - Regulations on the cross-border movement of wastes and their disposal
 - Regulations on the prevention of waste and the recycling and disposal of waste
 - Regulations on saving resources and the promotion of recycling
- **Regulations on companies importing, manufacturing and using chemical materials**
 - Regulations on the registration and evaluation of chemical materials
 - Regulations on the confirmation of chemical materials, statistical survey and disclosure of information
 - Regulations on the safety management of hazardous chemical materials and business operators
 - Regulations on preparation and response to chemical accidents (designation of accident-prone materials, etc.)
 - Regulations on the safety management of chemicals items used in everyday life and biocides
- **Others**
 - Sustainable energy, reduction of greenhouse gas
 - Alignment of land & environment plan and the pursuit of environmental impact assessment
 - Regulations on the management of clean & safe water environment
 - Regulations on creating an environment that is clean for the ears, nose and eyes

- Regulations on the preservation and use of a natural environment in which humans, animals and plants coexist.

13. Dispute Arbitration and Resolution through International Arbitration Committees, etc.

In general, Korea respects international laws and international dispute arbitration processes. The Seoul International Dispute Resolution Center (Seoul IDRC) opened in 2013 in order to enhance the convenience of Korean companies and foreign-invested companies in Korea.

14. Ports and Airports

● Marine transportation

- The major ports in Korea are located in Busan, Incheon, Gwangyang, Pyeongtaek, Dangjin, Deasan, Gunsan, Mokpo, Jeju, Gwangyang, Masan and Ulsan.

[Container traffic in Korea's major ports]

(Unit: 10,000 TEU)

Port	2011	2012	2013	2014	2015	2016	2017
Busan	1,618	1,704	1,768	1,868	1,947	1,946	2,049
Gwangyang	207	215	228	234	233	225	305
Incheon	199	198	216	233	238	268	305

Source: Busan Port Authority, Yeosu-Gwangyang Port Authority, Incheon Port Authority

● Air transportation

- Korea has 15 airports, and international airports are located in Incheon, Gimpo, Gimhae, Jeju, Daegu, Cheongju, Yangyang and Muan

[Air Cargo Information System (AIRCIS) Service]

Service	Objective
Air logistics information portal	<ul style="list-style-type: none"> - Distribution and sharing of logistics information - Provision of information on logistics policies and news - Provision of global airport weather information and plane schedules
Air cargo information system	<ul style="list-style-type: none"> - Cargo reservation and tracking - Inbound/ outbound cargo information management and online payment - Issuance of air way bill number
Collaboration support system	<ul style="list-style-type: none"> - Creation of framework for sharing and exchanging information between companies - Forwarder system, shipping list, cargo tracking, etc.

Source: Incheon International Airport Corporation

[Air transportation]

Year	2013	2014	2015	2016	2017
No. of flights	271,224	290,043	305,446	339,673	360,295
No. of passengers	41,482,828	45,512,099	49,281,210	57,765,397	62,082,032
Air cargo (ton)	2,464,385	2,557,525	2,595,554	2,714,341	2,921,691

Source: Incheon International Airport Corporation

15. Cost of Utilities- Electricity, Water

● Overall service quality

- The basic infrastructure of utilities such as water, gas and electricity is well established around the nation.

[Public utility prices]

Utility Service	Price				Unit
Electricity	Use	Power used	Basic fee	Electricity fee	kwh
		101~200kwh	910(US\$ 0.80)	93.3(US\$ 0.08)	
		201~400kwh	1,600(US\$ 1.41)	187.9(US\$ 0.17)	
		401~500kwh	7,300(US\$ 6.43)	280.6(US\$ 0.25)	
	Industrial	4~300kwh	5,500~6,900 (US\$ 4.85~6.08)	59.2~60.2 (US\$ 0.05~0.05)	
		300~1,000kw	7,220~8,090 (US\$ 6.36~7.13)	61.6~107.0 (US\$ 0.05~0.09)	
Gas	For households	Cooking - 13.5353(US\$ 0.01) Heating - 13.5353(US\$ 0.01)			MJ (exclusive of VAT)
	For businesses	13.6558(US\$ 0.01)			
	Industrial	Winter – 12.1841 (USD 0.01) Summer – 11.9476 (USD 0.01) Others – 12.0005 (USD 0.01)			
Water	Raw water	233.7(US\$ 0.21)			m³
	Treated water	432.8(US\$ 0.38)			
	Settled water	328.0(US\$ 0.29)			
Oil	Gasoline- 1,611.79 (USD 1.42, as of Jul. 20, 2018) ※ Average national price, regular gasoline inclusive of VAT				Liter(ℓ)
Diesel	1,412.72 (USD 1.25, as of Jul. 20, 2018) ※ Average national price				Liter(ℓ)
LPG	869.41 (USD 0.77, as of Jul. 20, 2018) ※ Average national price, butane gas for automobiles inclusive of VAT				

16. Road Network/Land Transportation

● Railway

- There are regular trains (Mugunghwa, Saemaeul) and the KTX (Korea Train Express) high speed train in Korea. The KTX is the most expensive, followed by Saemaeul and Mugunghwa.
- With the operation of the KTX in 2004, Korea became the 5th country in the world to have a high speed train system.

[Passenger capacity by train type]

(Unit: 1,000 passengers)

Year	Total	Trains				
		Sum	KTX	Saemaeul	Mugunghwa	Commuter train
2006	1,143,314	190,785	36,490	9,690	55,914	12,237
2007	1,106,306	186,803	37,315	10,014	55,320	7,980
2008	1,130,984	186,713	38,016	10,814	57,383	6,884
2009	1,074,019	178,193	37,402	10,835	54,371	3,973
2010	1,120,216	190,123	39,356	10,916	56,106	1,254
2011	1,217,690	216,320	44,675	10,207	57,470	742
2012	1,293,839	223,783	45,351	9,379	59,998	741
2013	1,367,747	229,831	45,123	9,007	63,570	1,085
2014	1,405,775	235,190	47,220	6,015	64,262	7,046
2015	1,419,828	239,234	46,880	3,026	62,123	5,200
2016	1,421,379	242,263	48,302	2,488	58,026	4,900
2017	1,343,968	224,111	45,115	2,624	55,019	4,743

Source: Korea Expressway Corporation (as of December 2017)

● Highway

- Korea has a vast and convenient highway network, and as of 2017, the combined length of the country's highway is 110,091 km.
- Source: Ministry of Land, Transport and Infrastructure

[Highway traffic]

(Unit: 1,000 cars)

Expressway	No. of cars	Expressway	No. of cars
Gyeongbu	487,557	Jungang	166,764
Seoul Outer Ring	328,851	West Coast	161,677
Yeongdong	217,021	Gyeongin	55,552
Jungbu	159,286	Honam	133,895

Source: Korea Expressway Corporation (as of December 2017)

17. Tax Level and Structure

● Taxation

- The ratio of amount of taxes to national income stands at 22.55% (as of 2017), which is lower than that of OECD member nation's average of 25.5% (as of 2017, 2018 figures are unannounced).

* Source: OECD Revenue Statistics (2018 edition)

- For corporate income exceeding KRW 200 million, the income tax rate was lowered from 25 percent in 2008 to 22 percent in 2009. For corporate income of KRW 200 million or less, the income tax rate was lowered from 11 percent in 2009 to 10 percent in 2010.

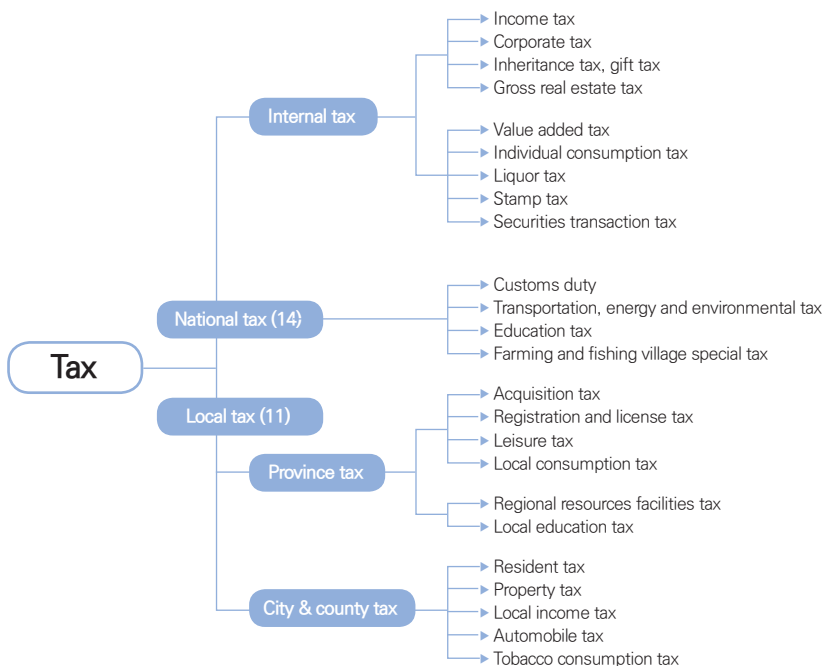
[Basic tax rate for consolidated income tax]

Tax Base	Tax Rate
KRW 12 mil. or less	6%
More than KRW 12 mil. and not more than KRW 46 mil.	KRW 720,000 + The amount exceeding KRW 12 mil. X 15%
More than KRW 46 mil. and not more than KRW 88 mil.	KRW 5,820,000 + The amount exceeding KRW 46 mil. X 24%
More than KRW 88 mil. and not more than KRW 150 mil.	KRW 15,900,000 + The amount exceeding KRW 88 mil. X 35%
More than KRW 150 mil. and not more than 300 mil.	KRW 37,600,000 + The amount exceeding KRW 150 mil. X 38%
More than KRW 300 mil. and not more than 500 mil.	KRW 94,600,000 + The amount exceeding KRW 300 mil. X 40%

More than KRW 500 mil.	KRW 174,600,000 + The amount exceeding KRW 500 mil. X 42%
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[Basic tax rate for corporate income tax]

Tax Base	Tax Rate
The amount not more than KRW 200 mil.	10%
The amount exceeding KRW 200 mil. and not more than KRW 20 bil.	20%
The amount exceeding KRW 20 bil. and not more than KRW 300 bil.	22%
The amount exceeding KRW 300 bil.	25%



18. Population and GDP

● Population

- Population of 51,663,000, 26th highest in the world (statistics by 2018 IMF)

● GDP

- Nominal GDP: USD 1 trillion 693.2 billion – 12th highest in the world (as of 2018, statistics by IMF)
- Per capita GDP: USD 32,774 – 27th highest in the world (as of 2018, statistics by IMF)

19. Schools and Hospitals (Medical System) for Foreigners

● Foreign schools

- Most of the children of foreigners residing in Korea receive education from a school for foreigners.

[Number of foreign schools in Korea]

Curriculum	Seoul	Gyeonggi	Busan	Jeju-do	Others	Sum
Foreign schools	22	7	5	4	9	47

Source: Foreign schools and education institutes in Korea (as of Dec. 2017)

● Medical system

- Korean hospitals have high-tech medical equipment, and provide high quality medical service. With the increase in foreigners living in Korea, the demand for medical services for the foreign population increased, and many hospitals are providing services of global standards to attract foreign patients.

[Hospitals providing medical service to foreigners (Seoul)]

Hospital	Website
Seoul National University Hospital	www.snuh.org/english
Seoul Samsung Medical Center	www.samsunghospital.com
Severance Hospital	www.yuhs.or.kr/en
Seoul Asan Hospital	Eng.amc.seoul.kr/asam/lang/eng/main.do
Korea University Hospital	www.kumc.or.kr
KyungHee University Hospital	www.khmc.or.kr
Jaseng Hospital of Korean Medicine	www.jaseng.co.kr
Medi-i Hospital	www.medi-i.com
Cheil General Hospital & Women's Healthcare Center	www.cheilmc.co.kr
Mizmedi Hospital	www.mizmedi.com
Hanyang University International Hospital	ih.hyumc.com
Migrant Workers' Hospital	www.mwhospital.com

20. Housing

● Convenience of living

- According to Statistics Korea, Yeongdeungpo-gu district has the highest foreign population in Seoul, followed by Guemcheon-gu and Guro-gu. This is attributable to the high concentration of foreign companies in Yeongdeungpo-gu and the industrial complexes in Guemcheon-gu and Guro-gu. The foreign population is also high in Hannam-dong where many embassies are located, and foreign villages such as the French Village and the Japanese Village. In these foreign communities, the living environment is quite convenient as hospitals, schools and shopping centers cater to the needs of foreigners.

● Cost of living

Foreigners generally prefer monthly rent, and the rent in foreign communities is relatively higher than in other areas.

[Housing (including attached land, housing sale contract) brokerage fee]

Seoul city government's ordinance on housing brokerage fee, Article 2, Attached Table 1

(Enforced April 14, 2015)

Transaction	Transaction amount	Upper limit (rate)	Upper limit (amount)	Housing brokerage fee rate	Calculation of transaction amount
Sale, exchange	Less than KRW 50 mil.	6/1,000	KRW 250,000	The brokerage fee is decided within the amount calculated by: Transaction amount X Upper limit (rate). The calculated amount cannot exceed the upper limit (amount).	- Sale: Sale price - Exchange: Price of higher-priced property
	KRW 50 mil. or more-Less than KRW 200 mil.	5/1,000	KRW 800,000		
	KRW 200 mil. or more-Less than KRW 600 mil.	4/1,000	None		
	KRW 600 mil. or more-Less than KRW 900 mil.	5/1,000	None		
	More than KRW 900 mil.	Within ()/1,000		An upper limit (rate) not exceeding 9/1,000 shall be decided by a practicing real estate agent, and then the final rate shall be decided through a negotiation between the client and real estate agent.	
Lease (transactions excluding sales or exchange)	Less than KRW 50 mil.	5/1,000	KRW 200,000	The brokerage fee is decided within the amount calculated by: Transaction amount X Upper limit (rate). The calculated amount cannot exceed the upper limit (amount).	- Jeonse: Jeonse amount - Wolse (monthly rent): Deposit + (monthly rent X 100) If the amount calculated is less than KRW 50million, Deposit + (Monthly rent X 70)
	KRW 50 mil. or more-Less than KRW 200 mil.	4/1,000	KRW 300,000		
	KRW 100 mil. or more-Less than KRW 300 mil.	3/1,000	None		
	KRW 300 mil. or more-Less than KRW 600 mil.	4/1,000	None		

Transaction	Transaction amount	Upper limit (rate)	Upper limit (amount)	Housing brokerage fee rate	Calculation of transaction amount
Lease (transactions excluding sales or exchange)	KRW 600 mil. or more		Within ₩1,000	An upper limit (rate) not exceeding 8/1,000 shall be decided by a practicing real estate agent, and then the final rate shall be decided through a negotiation between the client and real estate agent.	<ul style="list-style-type: none"> - Jeonse: Jeonse amount - Wolse (monthly rent): Deposit + (monthly rent X 100) If the amount calculated is less than KRW 50million, Deposit + (Monthly rent X 70)

※ Calculation of transaction amount of housing sale contract: [Amount paid until the point of transaction (including loans) + premium] X Upper rate

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