DOING BUSINESS

IN KOREA

The network for doing business

CONTENTS

1 – INTRODUCTION

UHY is an international organisation providing accountancy, business management and consultancy services through financial business centres in around 90 countries throughout the world.

Business partners work together through the network to conduct transnational operations for clients as well as offering specialist knowledge and experience within their own national borders. Global specialists in various industry and market sectors are also available for consultation.

This detailed report providing key issues and information for investors considering business operations in Korea has been provided by the office of UHY representatives:

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Information in the following pages has been updated so that they are effective at the date shown, but inevitably they are both general and subject to change and should be used for guidance only. For specific matters, investors are strongly advised to obtain further information and take professional advice before making any decisions. This publication is current at 26 November 2023.

We look forward to helping you do business in Korea.

2 – BUSINESS ENVIRONMENT

BACKGROUND

The South Korean economy has been one of the fastest growing economies in the world, and the country has become one of the most highly industrialized nations thanks to its strong export-driven manufacturing sector and highly skilled labour.

In 2023, South Korea is ranked 13th largest economy in terms of nominal GDP according to IMF. Further, the country has been regarded as a high-income country in terms of GNI (nominal) per capita.

South Korea has attracted foreign investment from various countries including US, Europe, China as well as Asia-Pacific countries because of its world-class human capital, robust IT infrastructure, trendy customers, and stable political environment. In this regard, South Korea has been used as a test market for expansion of other Asian countries.

POPULATION

As of October 2023, the population of South Korea is around 51.3 million.

GEOGRAPHY

South Korea, officially Republic of Korea, occupying the half of the Korean peninsula is located between China and Japan. Korea has a temperate climate with four distinct seasons: spring, summer, autumn and winter.

CURRENCY

South Korean currency is Korean Won.

LANGUAGE

Korean is the only official language in South Korea and North Korea.

MAJOR EXPORTS

South Korea mainly exports integrated circuits, motor vehicles, oil and petroleum products, petrochemical products, machinery, iron and steel products, parts and accessories of motor vehicles, ships, wireless communication devices, computers, and entertainment including movies, TV shows and music. The leading export destinations include China, United States, Vietnam, Japan, Hong Kong, Taiwan, Singapore, and India.

MAJOR IMPORTS

South Korea's main imports include crude oil, natural gas, coal, integrated circuits, machinery and equipment, chemical compounds, computers, wireless communication devices, including mobile phones and motor vehicles. The major import countries are China, United States, Japan, Australia, and Saudi Arabia.

EDUCATION – PRIMARY AND SECONDARY

Primary and secondary education is subsidized by the government. South Korea has a single-track 6-3-3-4 system (i.e., 6 years of primary school, 3 years of middle schools, 3 years of high school and 4 years of university).

It is noted that South Korea is one of the top-performing countries in reading, mathematics, and sciences among OECD member countries. Whilst primary school education is mandatory, nearly all primary school graduates tend to attain high school diploma in Korea.

TERTIARY EDUCATION

Tertiary institutions in Korea are made up of universities, awarding 4-year bachelor's degrees and junior colleagues, offering 2-year associate degree programs. In 2020, around 72.5% of high school graduates pursued tertiary education.

HEALTH CARE SYSTEM

National health insurance within the national social security framework, provides comprehensive healthcare to all citizens and the relevant eligible residents. South Korea is regarded as one of the countries that offer the best healthcare to its citizens in the world.

TELE-COMMUNICATIONS

There are three mobile networks in Korea. More than 60 million subscriptions were active in early 2023. Further, South Korea has recently reached 50 million 5G subscribers in 2023.

BANKING AND FINANCIAL SERVICES

South Korea has developed a sizeable financial sector, including the third largest insurance market and third largest banking market in Asia. Financial institutions in Korea are divided into two – banking and non-banking financial institutions. The Financial Services Commission and the Financial Supervisory Service are responsible for supervising and regulating all banks as well as securities and insurance companies.

TRANSPORTATION LINKS

Public transportation in South Korea is second to none. The country has 8 international airports, 6 domestic airports, 4 high speed train routes and modern subway systems in 5 metropolitan cities.

3 – FOREIGN INVESTMENT

Korea's Foreign Direct Investment (FDI) has reached the top in 2021 in the history. According to World Investment Report 2022, United Nations Conference on Trade and Development, the amount of FDI inflows in 2021 was US$ 22 billion while the figure in 2022 was US$ 18 billion. In terms of the FDI inflows, South Korea was ranked 16th globally in 2022.

Regulatory framework of FDI

The Foreign Investment Promotion Act (FIPA) regulates FDI of foreign investors in Korea. Under the FIPA, when a foreigner's investment exceeds the minimum investment threshold of KRW 100 million, the investment may be recognised as FDI subject to meeting other requirements.

In this regard, the FDI takes a form of acquiring shares in a domestic corporation , giving a long-term loan to a registered Foreign-invested Enterprise (FIE) or creating an endowment for a Not-For-Profit organisation (NFPO).

1. Share acquisition that results in at least 10% shareholding in a domestic company or participation in management through dispatchment or appointment of an executive officer.
2. Giving a loan with a term of 5 years or more to a registered FIE by (a) its overseas parent company or (b) a foreign company having equity investments in the overseas parent company.
3. Creating an endowment for a NFPO, seeking furtherance of academic research, arts, medical and education.

With respect to the share acquisition, when the share acquisition meets the requirements to be FDI, the investee company is recognised as a registered FIE.

However, registration of a FIE is not mandatory for a foreign investor. A foreign investor can establish a company under the Foreign Exchange Transactions Act (FETA), rather than under FIPA. In such case, a foreign investor does not need to meet the minimum investment requirement of KRW 100 million under FIPA.

A foreign investor is required to report his/her/its investment to the designated foreign exchange bank or the relevant authority in advance in accordance with FIPA or FETA. In case of a registered FIE under FIPA, the foreign investor is also required to complete the registration of a FIE within 60 days from the date of capital contribution made by the registered foreign investor.

Overview of legal framework concerning foreign currency transactions

(1) <u>Reportable foreign currency transactions - capital</u>

As opposed to foreign currency transactions of a revenue nature, any foreign currency transactions of a capital nature require the filing of forms or reports with the designated foreign exchange bank or the Bank of Korea, which is the central bank of Korea, regulating foreign currency transactions.

In this regard, a resident individual or company must report foreign currency transactions of a capital nature to the designated foreign exchange bank or the Bank of Korea in advance. Such foreign currency transactions include, but are not limited to, investment in a local company by way of incorporation, acquisition of shares in an existing company, a capital increase of an existing company, or an intercompany loan. Accordingly, without such reporting, a local bank will not process such funding from a foreign entity until the local recipient duly reports such foreign currency transactions to the relevant authorities.

(2) Foreign currency transactions that do not require any reporting or declaration
Even with the revenue of foreign currency transactions, a local bank in Korea will require the submission of supporting documents. For instance, in order for a person to pay a foreign vendor's invoice (i.e. make an international bank transfer to a foreign vendor), the person is required to submit the relevant invoice and contract or agreement.

On the same note, when a company or individual receives a payment from an overseas entity, the local resident company or individual is often required to substantiate the source of the payment by submitting the relevant documentation.

(3) Reportable foreign currency transactions - revenue
One of the unique foreign currency transactions of a revenue nature, which require a foreign company's attention is a set-off of intercompany payables against intercompany receivables. A resident company in Korea is not permitted to offset intercompany payables against intercompany receivables with a foreign-related entity without reporting the set-off to the foreign exchange authority first.

Another example would be making a cross-border payment to a third party (often referred to as a third-party payment). If a local company makes a payment to a third party abroad with whom the payor has not been in any contractual or business relations, such a payment would trigger a breach of the relevant foreign currency laws and regulations.

When such payments are necessary, the payor must seek approval from the foreign exchange authority first.

4 – SETTING UP A BUSINESS

Like other jurisdictions, the most favoured business entity for a foreign investor is a company due to the distinctive advantage of limited liability of the owners.

TYPES OF PARTNERSHIP

There are two types of partnerships in Korea. One is a general partnership (Hapmyung Hoesa in Korean). The other is a limited partnership (Hapja Hoesa in Korean). That said, formation of a partnership is not common. In the past, a law firm was established as a Hapmyung Hoesa, but many law firms now have converted their legal structures to a Limited Company (Yuhan Hoesa in Korean).

COMPANY CAPITAL

There is no minimum share capital to establish a company, but registration of a foreigner-invested enterprise under FIPA requires at least KRW 100 million capital contribution.

TYPES OF COMPANIES

The Korean Commercial Code (KCC) recognises the following three types of companies in Korea.

- Joint-stock company (Cusik Hoesa in Korean)
- Limited company (Yuhan Hoesa in Korean)
- Limited liability company (Yuhan Chaekim Hoesa in Korean)

Most foreign investors tend to form a Chusik Hoesa or Yuhan Hoesa. In this regard, only Chusik Hoesa can issue shares or bonds to public. It is noted that Jusik Hoesa was the only company type that the owner can transfer his or her shares to another person without any restrictions. In the past, transferring units of a Yuhan Hoesa required a special resolution of members. On that basis, a Chusik Hoesa is the type of a corporate entity favoured by investors who need public funding subsequently.

However, after the amendment of the Corporation Act in 2011, a member in a Yuhan Hoesa can transfer his or her units of a Yuhan Hoesa without any restrictions unless the article of incorporation stipulates such restrictions or limitations on transferring units to another person.

Further, KCC prescribes less corporate government requirements for a Yuhan Hoesa than a Chusik Hoesa. Governing bodies of a Chusik Hoesa are board of directors and shareholder's meeting. However, in case of a Yuhan Hoesa the members' meeting is the sole governing body. There is no concept of authorised share capital for a Yuhan Hoesa unlike a Chusik Hoesa.

A foreign investor can also establish a branch or liaison office rather than companies. The difference between the branch and the liaison office is whether the entity is capable of performing income producing activities. In this regard, a liaison office is not permitted to perform any income-producing activities, and it cannot issue tax invoices to customers in Korea. On that basis, the functions of the liaison office must be restricted to only preliminary or auxiliary activities.

As mentioned earlier, a branch is entitled to undertaking income-producing activities and can issue a tax invoice to a customer. As a such, like a company, a branch is required to file a corporate income tax return and a VAT return. Also, although a branch cannot declare dividend, it can remit its annual profit to the head office in accordance with the relevant laws and regulations.

CORPORATE GOVERNANCE OF A COMPANY

One of the unique features of corporate governance in Korea is the representative director. In this regard, only the representative director can represent the company and make business decisions unless the relevant laws, the article of incorporation or the board do not permit to do so.

A director is a member of the board of the company and is entitled to review and monitoring of other director's performance as a director. Also, a director (other than the representative director) may be entrusted with an executive power pursuant to the articles of incorporation.

A Joint-stock company (Chusik Hoesa) with paid-in-capital of KRW 1 billion or more must have three directors, including the representative director, and one statutory auditor. The statutory auditor is a senior position of the company and cannot be involved with the company's management.

The statutory auditor's role is to monitor the company's financial affairs and the directors' performance of their duties, and to review the proposed annual financial statements. On that basis, a director of a company cannot be appointed as a statutory auditor of the same company. The statutory audit position should not be confused with an external auditor who performs a statutory audit.

Directors' duties and liabilities
A director of a company owes fiduciary duties to the company in Korea. Accordingly, a director's duties under the Korean Commercial Code (KCC) include:

- Duty of due care and loyalty
- Confidentiality
- Duty of disclosure
- Duty not to be engaged in business in competition with the company
- Duty not to divert prospective business opportunities
- Self-dealing is only allowed when the board approves the matter.
- Preparation of accounts

Under the Korean Commercial Code (KCC), where a director has acted in violation of any laws and regulations or the article of incorporation of the company; or neglected to perform his or her duties as a director, the said director is liable for the damages to the company as a result of the violation or neglect. Further, if the board resolved the matters concerning the violation or neglect, other directors who approved the matters are jointly and severally liable.

A director is also liable to a third party concerning an intentional breach of his or her duties or gross negligence.

Shareholders' ordinary resolution
KCC prescribes certain matters must be authorized by an ordinary resolution of the shareholders, adopted by a majority of the votes of the shareholders present representing at least one-fourth of the total number of issued and outstanding shares. Such matters include, but are not limited:

- Appointing a director (including a representative director if the article of incorporate stipulates), statutory auditor, or liquidator
- Setting limits for remuneration of directors, statutory auditors, and liquidators
- Authorising a company's acquisition of its shares
- Approving annual financial statements and declaration of dividends

Shareholders' special resolution
A special resolution is made by at least two-thirds of shareholders present at the meeting and at least one-third of total issued and outstanding shares. In accordance with KCC, the corporate matters requiring the special resolutions include, but are not limited to:

- Amending the articles of incorporation
- Dismissing a director or statutory auditor
- Issuing shares at a price less than par value
- Capital reduction
- Dissolution and liquidation
- Shareholder's approval on a merger or spin-off
- Granting share options

Board's meeting (corporate resolution)
Under KCC, a board of directors can resolve the following matters:

- Disposal of important assets
- Obtaining borrowings of a substantial amount
- Establishing and closing a branch office
- Appointing or dismissing a representative director or executive director

Some important corporate decisions such as corporate mergers, splits, business transfers, or dissolution require both shareholders' meetings and board resolutions. In this regard, the representative director or executive officer of the company deals with the corporate matters that the board has resolved.

Matters to be resolved at a general meeting of shareholders
Despite KCC prescribing the corporate matters that require shareholders' approval, a company may further restrict directors' powers by specifying more matters to be resolved at a general meeting of shareholders in its article of incorporation.

Shareholders or the authorized proxies exercise their voting rights by attending the general meeting of shareholders. Voting may be done in writing in place of actual attendance, provided that the article of incorporation permits.

5 – LABOUR

The Labour Standards Act (LSA), as well as the other relevant laws, including Minimum Wage Act, regulates employment related matters in Korea.

Work hours

Under the relevant labour laws and regulations, statutory working hours are 8 hours per day and 40 hours per week, excluding break times. In this regard, overtime of up to 12 hours per week is permitted at present, provided that an employer pays an overtime premium. That said, this rule does not apply to employees in management or supervisory positions or those who handle confidential information.

Leave entitlement

An employee who has worked for an employer for a full year is entitled to 15 days of paid annual leave at the end of the service year. Before an employee reaches one one-year anniversary (i.e., one year of service), he or she is entitled to one day of paid leave per one-month service.

Subsequently, an employee can get an additional 1 day of paid annual leave every two years up to 25 days.

Pregnant female employees are entitled to 90 days of paid maternity leave, provided that they must use at least 45 days out of the 90 days after giving birth. On the other hand, male spouses are entitled to 10 days of paid paternity leave.

If an employee has a child aged 8 years old or younger (or elementary school 2nd grade or lower), the employee is entitled to childcare leave up to one year in 2023.

Four national social insurances

There are four national social insurances in Korea, which are national pension, national health insurance, employment insurance and worker's compensation insurance. Except for the worker's compensation insurance, both the employer and employee share the burden of the social insurance contributions.

Further, an employer has to bear the administrative burden in dealing with the three insurance authorities – National Health Insurance Service, National Pension Service, and Worker's Compensation & Welfare Service (which administers both employment insurance and worker's compensation). As such, an employer is required to report new employees and termination of employment as well as annual pay declaration to each three authorities.

Severance pay

An employer must pay statutory severance to an employee who has serviced the employer for at least one year regardless of the reason for leaving under the Guarantee of Woker's Retirement Benefit Act.

The amount is equivalent to one month's worth of pay each year. In this regard, the payment is determined as average daily salary x 30 (days) x (total days of services/365). In this regard, the severance payment is required only when an employee leaves the employer.

The Korean government has introduced an employer-sponsored retirement pension plan which will supersede the severance pay system. The retirement pension plan could be either a Defined Contribution plan or a Defined Benefit plan. Under the new scheme, an employer is required to make periodic contributions to the plan.

Unfair dismissal

In accordance with article 23-1 of LSA, an employer can not dismiss or discipline the employees without just cause. Courts in Korea look at the factual circumstances of the dismissal to determine whether the dismissal was considered unfair. In this regard, such just cause includes, but is not limited to:

- Due to personal reasons suck as illness, the employee is not able to perform his or her work.
- The employee has committed fault such as negligence, dereliction of duties, coarse language, assault, contravention of rules and regulations etc; and
- There are urgent business needs for such dismissal (e.g., a company dissolution, restructuring etc).

Also, an employer must give a notice of dismissal at least 30 days in advance. Otherwise, an employer is required to make a 30 day-notice pay in lieu of the notice.

6 – TAXATION

CORPORATE TAXATION

The corporate taxpayer and residency
A corporate taxpayer can be either a domestic or foreign corporation. If a corporation has its head or main office, or place of effective control and management in Korea, the said corporation is regarded as a domestic corporation in Korea.

A domestic corporation is taxed on its worldwide income. On the other hand, a foreign corporation having a permanent establishment is taxed on its Korean-sourced income only.

Determination of tax base (taxable income)
In computing tax base of a corporation, the economic substance takes priority over the legal form.

In accordance with the Corporate Tax Law (CTL) in Korea, a taxable income means an income or profit from transactions that increase the net value of assets of the corporation except when the increase relates to shareholder's contributions of share capital, or the CTL stipulates otherwise.

Likewise, a deduction means an expense or loss incurred by transactions that decrease the net value of assets of the corporation except when the decease relates to return of share capital, appropriation of retained earnings, or the non-taxable items that articles 17 and 18 of the CTL stipulate.

The tax base for corporate income tax is determined by aggregation of taxable income less allowed tax deductions. Deductions are allowed if they are incurred wholly and exclusively for producing income except when there are specific provisions in CTL that the deductions are disallowed or restricted.

In practice, the tax base is computed using net income in financial statements of a corporation as follows:

Net income in the financial statements
\+ income not included in the financial statements, but taxable for the tax purposes
\+ expense included the financial statements, but non-deductible for the tax purposes
– income included in the financial statements, but non-taxable for the tax purposes
– expense not included in the financial statements, but deductible for the tax purposes
= **Tax Base**

The tax adjustment items may be either temporary or permanent differences. Examples of such permanent differences include disallowed entertainment expenses and corporate income tax expense.

Tax rates
Please refer to the corporate income rates for 2023 financial year in the following table:

Tax Base		Tax Rate (*)
-	200,000,000	9 %
200,000,001	20,000,000,000	19%
20,000,000,001	300,000,000,000	21%
300,000,000,001	-	24%

(*) The tax rates are exclusive of local income tax.

Local income tax rate
South Korea has a system of two-tier income taxes – income tax and local income tax. The local income tax rates are: 0.9% up to tax base of KRW 200 million, 1.9% on the excess of KRW 200 million, but up to 20 billion, 2.1% on the excess of KRW 20 billion, but up to KRW 300 billion, and 2.4% on the excess of KRW 300 billion. Put simply, the local income tax rates are 10% of the corporate income tax rates.

Trading stock (inventory) valuation
Inventories are measured at either lower of cost or market, or cost method under the relevant tax laws and regulations. With respect to the cost method, specific identification, FIFO, LIFO, weighted-average cost or moving-average cost is permitted.

Securities valuation
Securities can be measured at one of the following methods:
(a) Specific identification (Bonds only)
(b) Weighted-average cost
(c) Moving-average cost

Business meals and entertainment
Business meals and entertainment, which are not supported by statutory substantiation (e.g., electronic tax invoices and corporate card statements) are not tax deductible. The qualifying business meals and entertainment, which are supported by statutory substation, are subject to the prescribed limit under the relevant corporate tax laws and regulations.

Interest deductions
Interest expenses incurred in the ordinary course of businesses of a corporation is tax-deductible, provided that the relevant loan is used for producing income. The exceptions to the general rule include, are not limited to:

- Thin capitalisation rules: if a domestic corporation's borrowings from its foreign controlling shareholder or a third-party lender under a payment guarantee provided by its foreign controlling shareholder exceeds 200% of the share capital contributed by the foreign shareholder (600% for financial institutions), the interest that corresponds to the excess is not tax deductible and is deemed dividend to the foreign controlling shareholder.
- if a domestic corporation's net interest expense exceeds 30% of the adjusted taxable income, the excess interest expense is not tax deductible. However, unlike the thin cap rule, the disallowed interest does not trigger the dividend deeming provision.

- If a domestic corporation pays interest on a hybrid financial instrument, and the interest income is not taxable in hands of the interest income recipient in a foreign jurisdiction, the interest-paying corporation in Korea can not claim the tax deduction.
- If the creditor of debenture is unknown, the relevant interest is not tax deductible.
- If the recipient of interest paid on bonds or securities is unknown, the interest is not tax deductible.

Depreciation
A corporation can claim depreciation using the prescribed depreciation method and useful life. One of the notable features of Korean taxation system with respect to depreciation is a corporation can claim the depreciation deduction only when the depreciation expense is included in its financials for the relevant financial year.

When accounting depreciation exceeds tax depreciation using the prescribed depreciation method and useful life under the CTL, the excess depreciation is not tax-deductible.

The prescribed depreciation methods under the CTL in Korea are:
- Tangible assets other than plant and buildings: straight-line or reducing balance method.
- Plant, building and intangible assets: straight-line method.
- Mining rights: service output or straight-line method
- Tangible assets used in mining: service output, reducing balance or straight-line method.

The prescribed useful life (UL) and the allowed useful life of tax depreciation are:

Tangible Assets	Prescribed UL	Allowed UL range
Motor vehicles	5	4 to 6
Ships and aircraft	12	9 to 15
Buildings and structures of bricks, concrete blocks, concrete, mudbricks, and timber frame etc.	20	15 to 25
Buildings and structures of reinforced concrete, steel-reinforced concrete, and steel frame etc.	40	30 to 50
Intangible Assets	**UL**	
Goodwill, design rights, utility models, and trademarks	5	
Patents	7	
Fishery rights and extraction rights under the Submarine Mineral Resources Development Act	10	
Mining rights	20	
Right of use dams	50	

Bonus and severance pay to a director

The tax-deductible limit for bonus or severance pay to directors is prescribed in the article of incorporation or payment policy resolved at annual general meeting of shareholders/members. A payment of a bonus or severance pay to a director exceeding the limit is not tax-deductible.

Foreign tax credit
A Korean domestic corporation can claim foreign tax credits for the eligible taxes paid in foreign jurisdictions up to the prescribed limit. The excess foreign tax credits can be carried forward up to 10 years from the financial year of 2021.

WITHHOLDING TAXES

A foreign corporation or non-resident individual without a permanent establishment in Korea is generally taxed under the withholding tax regime in Korea.

The withholding tax rates (exclusive of local income tax) applicable to the prescribed categories of income are:

- Interest, dividend, royalty, and other income: 20%
- Business income: 2%
- Income from lease of a ship or aircraft: 2%
- Personal service income: 20%
- Capital gain on disposal of real estate and securities: lower of 10% of sale proceeds or 20% of capital gain

On top of the tax withholding, the withholding agent in Korea (i.e., the income-paying domestic corporation) is required to withhold local income tax from the payment. In this regard, the local income tax withholding is determined as 10% of the tax withholding.

<u>Tax compliance requirements of the withholding tax agent</u>
The withholding tax agent (i.e. income-paying corporation) in Korea is required to declare the details of the income derived by the income recipient corporation in a foreign country in its monthly withholding tax return.

<u>Tax compliance requirements of the income recipient corporation claiming a reduced tax rate under the relevant tax treaty</u>
In case the tax jurisdiction of the foreign corporation has a tax treaty with Korea, the above-mentioned tax rates may be reduced to the tax rates pursuant to the relevant tax treaty. In such case, the foreign corporation must submit an "**Application for Entitlement to Reduced Tax Rate on Domestic Source Income (for Foreign Corporation)**" [Enforcement Rules of the Corporate Tax Act, Form No. 72-2] to the income-paying corporation in Korea. It is important to note that the form must be submitted to the income-paying corporation (i.e. withholding tax agent) rather than the tax authorities.

The form can be obtained from the tax authority's website below.

https://www.nts.go.kr/english/cm/cntnts/cntntsView.do?mi=10791&cntntsId=8664

Summary of reduced tax rates under the tax treaties with major countries

Country	Reduced rate (%)		
	Interest (*)	Dividend	Royalty
Australia	15	15	15
Canada	10	5[1] or 15	10
China	10	5[2] or 10	10
France	10	10[3] or 15	10
Germany	10	5[4] or 15	2[5] or 10
Hong Kong	10	10[6] or 15	10
India	10	15	10[7]
Indonesia	10	10[8] or 15	15
Italy	10	10 [9]or 15	10
Japan	10	5[10] or 15	10
Malaysia	15	10[11] or 15	10[12] or 15[13]
Netherlands	10[14] or 15	10[15] or 15	10[16] or 15[17]

[1] The beneficial owner is a company (other than a partnership), which controls directly at least 25% of the voting power of the dividend-paying company.

[2] The beneficial owner is a company (other than a partnership) which holds directly at least 25 % the capital of the dividend-paying company.

[3] The beneficial owner is a company (other than a partnership) which holds directly at least 10% of the capital of the dividend-paying company.

[4] The beneficial owner of a company (other than a partnership) which holds directly at least 25% of the capital of the dividend-paying company.

[5] Royalties paid for the use of, or the right to use, industrial, commercial or scientific equipment.

[6] The beneficial owner is a company (other than a partnership) which holds directly at least 25% of the capital of the dividend-paying company.

[7] Fees for technical services which means consideration for managerial or technical or consultancy services, including the provision of services of technical or other personnel are also included in the article 12 along with royalties.

[8] The beneficial owner is a company (other than a partnership) which holds directly at least 25 per cent of the capital of the dividend-paying company.

[9] The beneficial owner is a company (other than a partnership) which holds directly at least 25 per cent of the capital of the dividend-paying company.

[10] The beneficial owner is a company (other than a partnership) which controls directly or indirectly at least 25% of the voting power in the dividend-paying company.

[11] The beneficial owner is a company which owns directly at least 25% of the capital of the dividend-paying company.

[12] Payments of any kind received as a consideration for the use of, or the right to use, any patent, trade mark, design or model, plan, secret formula or process, copyright of any scientific work, or for the use of, or the right to use, industrial commercial, or scientific equipment, or for information concerning industrial, commercial or scientific experience.

[13] Payment of any kind received as a consideration for the use of, or the right to use, cinematography films, or tapes for radio or television broadcasting, or any copyright of literary or artistic work.

[14] Interest is paid on a loan made for a period of more than 7 years.

[15] The recipient is a company the capital of which is wholly or partly divided into shares and which holds directly at least 25% of the capital of the dividend-paying company.

[16] Payments of any kind received as a consideration for the use of, or the right to use any patent, trademark, design or model, plan, secret formula or process, industrial, commercial or scientific equipment; or information concerning industrial, commercial or scientific experience.

Poland	10	5[18] or 10	10
Singapore	10	10[19]or 15	5
Spain	10	10[20] or 15	10
United Kingdom	10	5[21] or 15	2[22] or 10
United States	12	10[23] or 15	10[24] or 15
Vietnam	10	10	5[25] or 10

(*) Exemption on interest is not included in the table. Please refer to the applicable tax treaty.

INDIVIDUAL TAXATION

A person who has a domicile in Korea or has resided in Korea for 183 days or longer in a particular financial year is regarded as a tax resident in Korea. A Korea resident pays income tax on worldwide income.

However, in accordance with Article 3-1 if Income Tax Act, a foreign resident who have lived in Korea less than 5 years in the last 10 years is not subject to income tax on foreign sourced income unless the income is paid by a Korea resident or transferred to Korea.

A non-resident is subject to income tax only on Korean sourced income (i.e., income derived from sources within Korea).

Individual income can be categorised as taxable, non-taxable, or tax-exempt. Taxable income includes global income, capital gain, and retirement income, each of which is subject to separate taxation. The separate taxation of capital gain and retirement income is referred as schedular income taxation.

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[17] Payments of any kind received as a consideration for the use of, or the right to use any copyright of literary, artistic or scientific work including cinematography films.
[18] The beneficial owner is a company (other than a partnership) which holds directly at least 10 per cent of the capital of the dividend-paying company.
[19] The beneficial owner is a company (other than a partnership) which holds directly at least 25 % of the capital of the dividend-paying corporation.
[20] The beneficial owner is a company (other than a partnership) which holds directly at least 25 per cent of the capital of the dividend-paying company.
[21] The beneficial owner is a company (other than a partnership) which controls directly or indirectly at least 25% of the voting power in the dividend-paying company.
[22] Royalties paid for the use of, or the right to use, industrial, commercial or scientific equipment.
[23] The beneficial owner holds at least 10% of outstanding shares of the voting stock of the dividend paying corporation in Korea during the part of the tax year, and not more than 25% of the gross income of the paying corporation consists of interest or dividends for the prior tax year.
[24] Royalties derived from copyrights, or rights to produce or reproduce any literacy, dramatic, musical or artistic work as well as royalties received as consideration for the use of, or the right to use, motion picture film and tapes used for radio or television broadcasting.
[25] Royalties in respect of payments of any kind received as a consideration for the use of , or the right to use, any patent, design or model, plan, secret formula or process or for the use of, or the right to use, industrial, commercial or scientific equipment, or for information concerning industrial, commercial or scientific experience.

On the other hand, under the global income taxation system, all global income items (i.e., employment income, interest income, dividend income, business income, pension income, and other income) are aggregated and taxed in a global income tax return.

The main principle for computing tax base is substance over form. Accordingly, the actual economic substance takes priority over the mere form.

The marginal tax rates of global income are summarised in the following table.

Tax Base		Tax Rate (**)
-	14,000,000	6 %
14,000,001	50,000,000	15%
50,000,001	88,000,000	24%
88,000,001	150,000,000	35%
150,000,001	300,000,000	38%
300,000,001	500,000,000	40%
500,000,001	1,000,000,000	42%
1,000,000,001	-	45%

(**) The tax rates are exclusive of local income tax.

Employment income
Employment income is income received by an employee from his or her employer on the basis of the employment relation and the personal exertion of the employee, which includes, but is not limited to, salaries, wages, bonus, commissions and allowances.

- Class A employment income
  When a Korean employer pays employment income to a Korean resident employee, such income is regarded as class A employment income. As a withholding agent, the employer is required to withhold taxes from the employment income, which could be compared to PAYE or PAYG in other jurisdictions.

- Class B employment income
  When a foreign employer pays employment income to a Korean resident employee, the employment is deemed class B employment income. As the foreign employer is not required to withhold taxes in Korea, the Korean resident employee receives his or her income without deduction of withholding taxes. In such case, the employee is required to file his or her global income tax return to declare the employment income and pay the income taxes. Alternatively, the Korean resident employee can opt for a taxpayer's association to pay his or her income taxes.

Business income
Business income in individual income taxation is income derived from trading businesses and servicing customers. Income from leasing a property or a right to use a property also falls on this category of income. The taxpayer can claim the eligible business deductions necessary for carrying out the business.

Dividend income

Dividend income from domestic and foreign corporations is taxable in hands of the recipient. A withholding agent (which is often referred to as withholding obligor) of dividend income is required to withhold taxes at 15.4% including 1.4% of local income tax from the payment.

In case an individual taxpayer derives total interest and dividend income of KRW 20 million or more, the dividend income is included in global income, which is subject to filing of a global income tax return.

Interest income
Like dividend income, Interest income from both domestic and foreign companies is taxable I hands of the recipient. Interest income is also subject to the same tax filing requirements. The rate of withholding taxes for interest income is also 15.4%, including 1.4%.

Pension income
Pension income includes income from public pension and private pension. Private pension income attracts withholding taxes at the rates from 3% to 5%. As a general rule, private pension income is included in global income tax. However, in case the private pension income is less than KRW 12 million per annum, the taxpayer can opt for separate taxation rather than global income tax filing.

Other income
Any income other than interest, dividend, business, employment, pension and retirement income would be regarded as other income. Other income includes, but is not limited to:

- Prize money, awards and other similar items.
- Money or goods received from participation in a lottery and any other prize won in a contest
- Fees received for use of copyrighted materials
- Royalties used for films and tapes
- Renal income derived from temporary leasing real estate or personal property
- Damages and indemnity payments received as a result of cancellation of a contract
- Gains on alienation of mining rights, fishing rights, industrial property rights, industrial information, trade secrets, trademarks etc.
- Gains on disposal of paintings, writings, and antiques.
- Bribes

Capital gain tax under schedular taxation system
Capital gain tax is imposed on gains on disposal of securities, real estate assets or other investments derived by individuals. Capital losses can reduce capital gains but can not create capital losses. Such excess losses may not be carried forward.

Retirement income under schedular taxation system
A lump sum payment received from retirement is classified as retirement income.

VALUED ADDED TAX (VAT)

Taxpayer

A person who independently engages in a supply of goods or services in the course of his or her business is considered a taxpayer for VAT. In this regard, taxpayers also include governments and local authorities.

Tax periods
The tax periods for VAT are divided into two periods as follows:

- First period: 1 January to 30 June
- Second period: 1 July to 31 December

VAT returns and payments
Despite two tax periods each year, a corporate entity is required to file preliminary VAT returns in quarter 1 and quarter 3 as well as final returns in quarter 2 and quarter 4. On that basis, a corporation is required to file VAT returns on a quarterly basis by 25th of the following month after the relevant quarter ends. VAT payments are due on the same dates.

Simplified taxation
The tax period for simplified taxation for an eligible taxpayer is 1 January to 31 December.

VAT rate
The standard VAT rate in Korea is 10%.

Taxable transactions
VAT is imposed on a supply of goods or services or importation of goods. As such, a supplier bears 10% output tax on the value of taxable supply of goods or services. Likewise, a purchaser can claim 10% input tax credit on creditable purchases.

Zero-rating and exemption
Zero-rating applies to exports of goods and the prescribed services provided to a non-resident on a reciprocal basis. Such services may include, but are not limited to, professional, advisory, and outsourcing services offered to a non-resident.

Further, a supply of the eligible essential goods or services, financial services, health, and cultural supplies such as unprocessed foods, public transportation, medical, education, books, postage, newspaper, arts, is VAT exempt.

Electronic tax invoice
When a supplier makes a taxable supply of goods or services to a resident within Korea, the suppler is required to issue an electronic tax invoice. The electronic tax invoice must be denominated in Korean won.

Input tax credits to be claimed by a liaison office of a foreign company
Pursuant to Article 107 of Special Tax Treatment Control Law (STTCL), on the basis of the VAT refund reciprocity principle, a non-resident individual or corporation, not having a permanent establishment in Korea, is entitled to claim input tax credits on the purchases of the prescribed goods or services, provided that the total refundable input tax credits exceeds KRW 300,000 per annum, and the non-resident has received electronic tax invoices to substantiate the claims.

This rule applies to a liaison office of a foreign corporation in Korea, which does not carry on business in Korea. However, STTCL restricts the eligible purchases on which a liaison office can claim input tax credits. Such purchases include rents, meals, accommodation, office furniture, supplies, telecommunication, and advertisement.

Electronic services delivered by a foreign corporation or individual
Where a foreign corporation or individual provides the following services through IT networks by way of a mobile device or computer, the said corporation or individual is subject to VAT taxation in Korea and the services are deemed to have rendered in Korea.

- Game, voice records, video files or software, etc
- Posting of advertisements
- Cloud computing
- Brokerage of goods or services

Further, where a foreign corporation or individual provides electronic services to a resident in Korea though one of the following third parties in Korea, the said third-party is deemed to have provided the electronic services.

- A person or entity who operates an open market or equivalent
- A person or entity who engages in activities concerning brokerage of electronic services

CUSTOMS DUTIES (FREE TRADING AGREEMENTS)

Korea Customs Service (KCS) is the authority in charge of administration of customs duties in Korea.

South Korea has legally effective Free Trading Agreements with Chile, Singapore, EFTA States (Ireland, Norway and Swiss) , ASEAN countries, India, EU, Peru, United States, Türkiye, Australia, Canada, China, New Zealand, Vietnam, Columbia, Central American Integration System (Panama, Costa Rica, Honduras, El Salvador, and Nicaragua), United Kingdom, and RCLEP (China, Japan, ASEAN, Australia and New Zealand). Further, South Korea has recently signed agreements with Indonesia, Israel, Cambodia and Philippines.

7 – ACCOUNTING & REPORTING

The Korean Commercial Code (KCC) stipulates that companies are required to present their financial statements in accordance with fair and reasonable accounting practices except when the KCC or the relevant regulations provide otherwise. Accordingly, K-IFRS or K-GAAP is the main basis of presenting financial statements in Korea.

The Korean Accounting Institute is the governing body responsible for issuing accounting standards in Korea, while Korean Institute of Certified Public Accountants (KICPA) is the sole professional accounting body in Korea.

With respect to financial reporting and statutory audit, Financial Supervisory Service (FSS) is charged with review, investigation and monitoring of financial reporting and statutory audit of companies and financial institutions. Further, FSS conducts periodic review of audit firms to ensure that auditors perform their audit in accordance with the Korean Auditing Standards. KICPA can also conduct periodic review of audit firms under the delegation of FSS.

Securities and Futures Commission (SFC) within Financial Services Commission regulates unfair trading practices and, securities and futures markets including financial reporting and statutory audit.

Listed companies or financial institutions are required to present its financial statements in accordance with K-IFRS. Also, subsidiaries of parent companies being listed companies or financial institutions are required to adopt K-IFRS. On the other hand, unlisted companies can prepare their financial statements in accordance with K-GAAP.

K-GAAP tends to be rules-based rather than principles-based, while K-IFRS is principles-based. Also, assets and liabilities are measured at cost rather than fair value.

Due to the amendment to the Act on External Audit of Stock Companies in 2018 together with the relevant Enforcement Decree and Rules, the new audit thresholds are as follows:

Joint-stock Company (Chusik Hoesa) – when a Chusik Hoesa meets at least two of the following four conditions at the end of the prior financial year, the Jusik Hoesa is subject to a statutory audit.

(a) Total assets: KRW 12 billion or more
(b) Total liabilities: KRW 7 billion or more
(c) Revenue: KRW 10 billon or more
(d) The number of employees: 100 or more

Limited Company (Yuhan Hoesa)– when a Yuhan Hoesa meets at least three of the following five conditions at the end of the prior financial year, the company must undergo a statutory audit.

(a) Total assets: KRW 12 billion or more
(b) Total liabilities: KRW 7 billion or more

(c) Revenue: KRW 10 billon or more
(d) The number of employees: 100 or more
(e) The number of members (unitholders): 50 or more

Regardless of the company type, if a company had total assets of KRW 50 billion or more at the end of the prior financial year or derived annual revenue of KRW 50 billion for the prior financial year, the company must undergo a statutory audit.

In case of the companies subject to statutory audit, the auditors are required to file their audit reports, including financial statements with the financial authorities via DART (https://dart.fss.or.kr) which are available to the public. In this regard, the audit reports, including financial statements must be presented in Korean.

8 – UHY REPRESENTATION IN KOREA

UHY DAH-YUL CERTIFIED PUBLIC ACCOUNTANTS KOREA

UHY

CONTACT DETAILS

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Geumcheon-gu
Seoul
Korea
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www.dahyul.co.kr

CONTACTS

Year established:	0
Number of partners:	13
Total staff:	50

SERVICE AREAS

Audit
Bookkeeping Services
Tax
Management &Financial Advisory Services
Other

SPECIALIST SERVICE AREAS

Stautory audit: all of our auditors have big 4 firm audit backgrounds.
- International clients services: We have two directors have international work experience
- Financial advisory (corporate finance) : One partner has corporate finance experience in finance industry
- Tax advisory: one of our partners is specialised in tax advisory and tax dispute

PRINCIPAL OPERATING SECTORS

IT & Engineering
Retail & wholesale
Property development & Real estate
Not For Profit
Multinational enterprises

LANGUAGES

Korea, English and Chinese

OTHER COUNTRIES IN UHY CURRENTLY WORKING WITH, OR HAVE WORKED WITH IN THE PAST

Our international clients are Korean subsidiaries of large companies based in US, Spain, Germany, Norway, Poland, Netherlands, Italy and Singapore.

The network for doing business

LET US HELP YOU ACHIEVE FURTHER BUSINESS SUCCESS

To find out how UHY can assist your business, contact any of our member firms. You can visit us online at www.uhy.com to find contact details for all of our offices, or email us at info@uhy.com for further information.