

Republic of Korea

Legal Provisions

Compiled by

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GENERAL REMARKS

The Republic of Korea (ROK), also known as Korea or South Korea, is a constitutional, democratic republic with a presidential system. Its government is divided into three branches: executive, judicial, and legislative. The 17 semi-autonomous local governments, each with its own executive and legislative bodies, add another layer to the administrative structure.

Korea and Switzerland have various bilateral agreements, including the Free Trade Agreement between EFTA and ROK (2006), the Avoidance of Double Taxation Agreement (1980), and the Korean-Swiss Science and Technology Agreement (2008), along with several other treaties related to social security and intellectual property. For more details, visit the [website](#) of the Federal Department of Foreign Affairs of Switzerland.

2023 marked the 60th anniversary of bilateral relations between Korea and Switzerland. Additionally, it commemorated the 70th anniversary of the Swiss Neutral Nations Supervisory Commission (NNSC) in Korea, established under the ceasefire agreement of 1953. As there's no peace agreement yet, the NNSC remains the sole legal mechanism preventing further hostilities on the Korean peninsula.

COVID-19 UPDATE

Currently, there are no PCR test or quarantine requirements for entering Korea. Please consult the [website](#) of the Swiss Embassy in Seoul and [FDFA's travel advice](#) which provides all latest updates on Korea and Switzerland's travel requirements.

FREE-TRADE AGREEMENTS

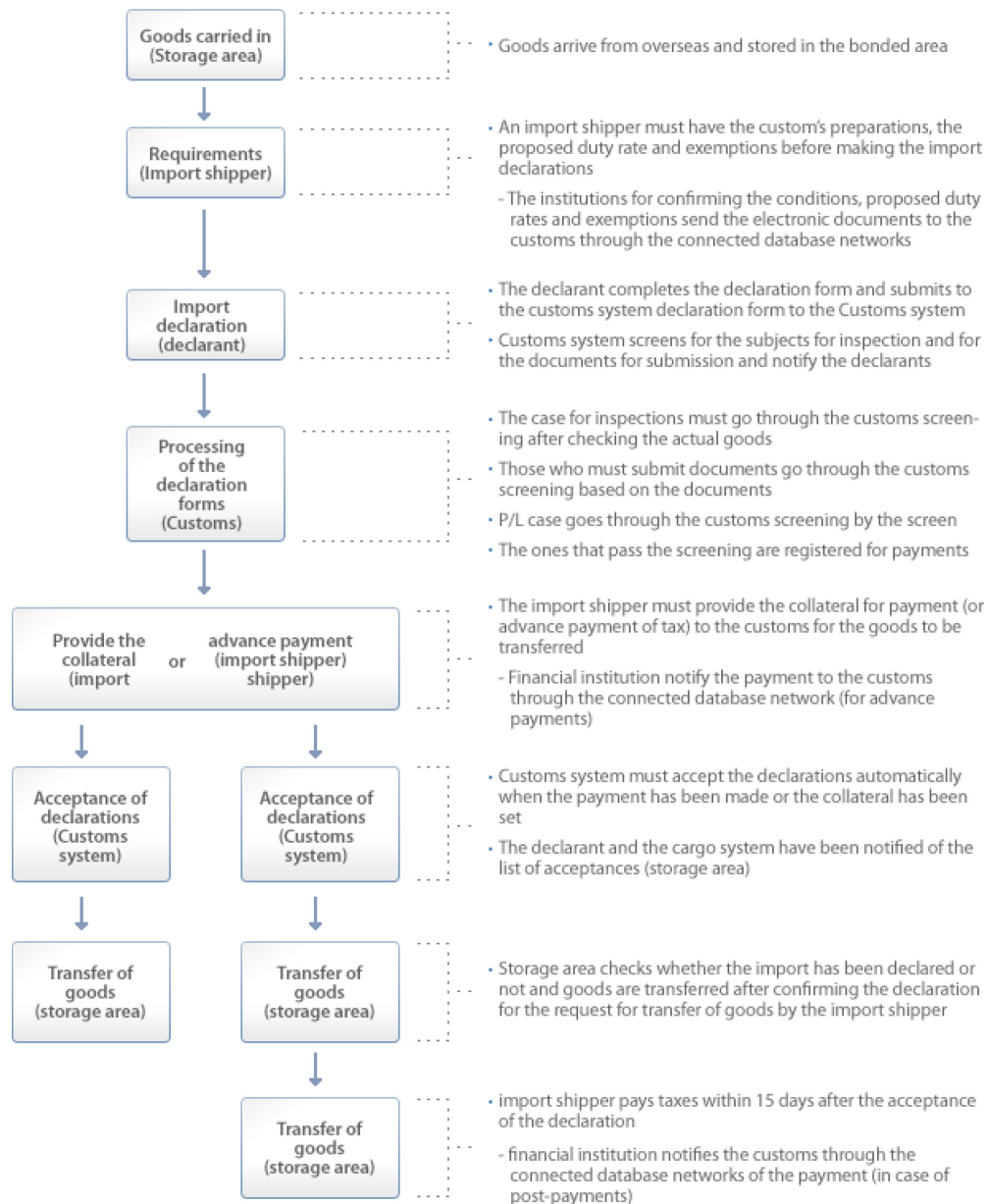
As of February 2024, Korea has established Free Trade Agreements (FTAs) with 21 countries, covering a total of 59 nations: Chile, Singapore, EFTA (4 countries), ASEAN (10 countries), India, EU (27 countries), Peru, USA, Turkey, Australia, Canada, China, New Zealand, Vietnam, Colombia, and the UK. Collectively, these markets represent more than 73.4% of the global population and contribute to 77.3% of the global GDP. Throughout 2021, Korea's trade interactions with its FTA partners accounted for approximately 77% of its overall foreign trade.

Free trade negotiations between the European Free Trade Association (EFTA) - comprising Iceland, Norway, Liechtenstein, and Switzerland - and Korea commenced in December 2004, initiated by ministers from both parties. The Agreement was officially signed in December 2005 and came into effect on

September 1, 2006. Currently, it encompasses all significant aspects of trade relations, including goods, services, government procurement, competition, and intellectual property, along with a dedicated chapter on dispute settlement. Additionally, Switzerland and Korea have bilateral agreements concerning primary agricultural products, and Korea has reached investment agreements with Switzerland, Iceland, and Liechtenstein. Discussions are underway to modernize the current FTA. For detailed legal provisions, kindly visit the [EFTA website](#). For tariff rates under the ROK-EFTA FTA, please refer to the [Korea Customs Services \(KCS\)](#) using the HS code of your product.

CUSTOMS

Importing goods into Korea requires payment of customs duties beforehand. The entire customs process is portrayed below:



Customs duties are calculated by multiplying the tax base (either the value of the imported goods or the quantity) by the tariff rate. The tariff schedule categorizes tariff rates into groups of items. Each item or group of items is assigned an HS Code, and the tariff rate applies accordingly. The tariff is determined based on the item's taxable value. An ad-valorem tariff is based on the item's value, while a specific commercial duty depends on the item's quantity. The taxable value, used for ad valorem duty, is the item's value. Korean customs valuations on taxable values adhere to the principles of the WTO Valuation Agreement. Further Information can be found on the [KCS website](#).

IMPORT AND EXPORT REGULATIONS

Preferential tariff treatment

In order to receive preferential tariff treatment from the FTA partner country:

1. The products must meet the preference criteria outlined in the Agreement.
2. A Certificate of Origin for the specified products in the Agreement must be prepared.

The KCS [website](#) offers information on preferential tariff treatment and laws/regulations for import and export.

Regulatory Oversight and Certification Standards

1. **Ministry of Food and Drug Safety (MFDS):** The MFDS is responsible for ensuring the safety, efficacy, and quality of various products in Korea, including food, pharmaceuticals, medical devices, cosmetics, and other items. This involves establishing and enforcing regulations for their production, distribution, and marketing. The MFDS conducts safety evaluations and assessments, along with inspections of manufacturing facilities, distribution channels, and retail outlets to ensure compliance with regulations. It also takes enforcement actions against any violations of these regulations.
2. **Korean Agency for Technology and Standards (KATS):** This authority plays a pivotal role in Korea's standardization and conformity assessment infrastructure. To ensure public health and safety, KATS mandates that specific consumer products, children's goods, and electronic products obtain certification with a Korea Certification (KC) Mark from authorized testing centers prior to sale. Certain items requiring compulsory legal certification are outlined in laws and ordinances pertaining to safety, health, environment, and quality. Final product testing is fundamental, and the KC Mark must be prominently displayed on the product or packaging through non-removable printing or engraving. Substituting the KC Mark with the European Conformity (CE) mark is not permitted.

Please check the [website](#) for more information on the KC mark.

Amended the Country-of-Origin Labelling Requirements

The Ministry of Trade, Industry, and Energy (MOTIE) revised the Foreign Trade Act to establish legal provisions for enforcing country-of-origin (COO) labelling requirements for goods manufactured in Korea. Effective as of December 11, 2022, the key amendments include:

- Introduction of a legal framework for enforcing COO labelling requirements for domestically produced goods.
- Stipulation of penalties for non-compliance with COO labelling regulations, including fines of up to KRW 100 million or imprisonment for up to 5 years for mislabelling or tampering with COO labels.
- Specification of domestically produced goods as eligible for certificates of origin.

Source: Kim & Chang

TAXES

In Korea, taxes are classified according to tax-levying government authorities, the purpose of taxation and income-based tax levies.

| | | |
|---------------------|---------------------|--|
| National Tax | Internal Tax | Income tax, corporate tax, inheritance tax, gift tax, gross real estate tax, value-added tax, individual consumption tax, liquor tax, transportation, energy, and environmental tax, stamp tax, securities transaction tax, education tax, farming and fishing village special tax |
|---------------------|---------------------|--|

| | | |
|------------------|---|--------------|
| | Customs Duty | Customs duty |
| Local Tax | Acquisition tax, registration and license tax, leisure tax, tobacco consumption tax, local consumption tax, resident tax, local income tax, property tax, automobiles tax, common facilities tax, local education tax | |

Source: www.investkorea.org

Corporate Tax

Domestic businesses in Korea pay corporate tax on income earned both domestically and internationally, while foreign companies pay corporate tax only on income earned from Korean sources.

Corporate income tax (CIT) is levied on a company's taxable income and constitutes a significant portion of taxes related to foreign investment, given that many foreign investors are corporations subject to this tax. Tax treaties stipulate that only income derived from a foreign company's permanent establishment in Korea is taxable. Permanent establishments include branches, warehouses, stores, installation sites, or construction projects.

Companies engaging in contractual activities or conducting business through agents authorized to buy or sell stocks on their behalf are also subject to tax. Three types of taxable income fall under corporate tax: annual business income, liquidation income, and capital gains from property transfer. Annual business income is determined by deducting deductible expenses from gross revenue. Liquidation income refers to the residual property value of dissolved (merged or divided) business parts exceeding the total equity capital. However, capital gains from the sale of non-business-purpose real estate are subject to additional capital gains tax at 10%.

Tax Reform 2023

| Item | Tax Reform effective on 1 January 2023 |
|--|--|
| Change in corporate income tax rates | Maintain the current tax bracket and reduce the corporate income tax rate by 1% for each taxable income bracket |
| Accumulated earnings reserve tax | Extend the sunset date of accumulated earnings reserve tax and limit the application of the tax to companies belonging to business groups subject to restrictions on cross-shareholdings |
| Application of flat income tax rate to foreign employees | The extended application period of the flat income tax rate to 20 years and the deletion of the sunset date |

Changes in CIT rates

| Tax Base | Tax Rate (Progressive) | |
|---------------------------|---|---|
| | Until December 2022 | Effective on 1 January 2023 |
| Less than KRW 200 million | 10% of the tax base | 9% of the tax base |
| More than KRW 200 million | KRW 20 million + 20% of the amount exceeding KRW 200 million | KRW 20 million + 19% of the amount exceeding KRW 200 million |
| More than KRW 20 billion | KRW 3.98 billion + 22% of the amount exceeding KRW 20 billion | KRW 3.98 billion + 21% of the amount exceeding KRW 20 billion |
| More than KRW 300 billion | KRW 65.58 billion + 25% of the amount exceeding KRW 300 billion | KRW 65.58 billion + 24% of the amount exceeding KRW 300 billion |

Furthermore, there is a local surtax of 10% added to the previous rates, resulting in final rates ranging from 11% to 27.5% based on the tax base.

New Rules for International Transactions in 2022

| The 2022 Tax Reform | Details/Submission Due Date | Effective Date |
|---|---|---|
| New obligation to submit information regarding the status of a liaison office of a foreign company (e.g., basic information of the liaison office, status of foreign headquarters and other domestic branches, among others) | 10 February of the following year | Effective for submission of the status information relevant to taxable years beginning on or after 1 January 2022 |
| New obligation to submit transaction details by foreign companies supplying electronic services | <ul style="list-style-type: none"> - Simplified Value Added Tax (VAT) registrant maintains electronic service transaction details for five years after the due date of the final VAT return - A simplified VAT registrant is required to submit a transaction statement within 60 days of receiving a request from the Commissioner of the National Tax Service (NTS) | Effective for the supply of electronic services on or after 1 July 2022 |
| Establishment of grounds for ex officio cancellation of simplified VAT registration | The NTS Commissioner may cancel a simplified VAT registration if the registrant closes its business | Effective on or after 1 January 2022 |
| The current Enforcement Decree of Adjustment of International Taxes Act applies a penalty for late or false filing of transfer pricing (TP) documentation (e.g., Master/ Local files, Country-by-Country Report) of up to KRW100 million (US\$87,000) The 2022 Tax Reform introduces new rules reducing the penalties for negligence for submitting revised or late TP documentation | 30% to 90% reduction in penalties for the submission of revised or late TP documentation before the penalty is imposed | Effective for submissions of TP documentation on or after the date of enactment of the Enforcement Decree |

Source: Ernst & Young LLP

Tax Reform 2024 - Global Minimum Tax (GMT) in Korea

On January 1, 2024, Korea adopted the global minimum tax in accordance with the OECD/G20 Inclusive Framework's Global Anti-Base Erosion (GloBE) rules. This implementation expands the Korean GloBE regulations outlined in the Adjustment of International Taxes Act (AITA). These updates align with the OECD's Pillar Two GloBE rules, including relevant administrative guidance, and reflect legislative changes seen across other member countries.

The implementation entails enforcing a 15% minimum corporate tax rate, primarily targeting multinational enterprises (MNEs) with significant global revenues. Additionally, the amendments involve delaying the effective date for the undertaxed payment rule (UTPR) until fiscal years beginning on or after January 1,

2025. The goal is to prevent tax base erosion and profit shifting by ensuring MNEs pay their fair share of taxes.

In light of these tax changes, foreign companies may need to review their operational structures, transfer pricing policies, and profit repatriation strategies to optimize tax efficiency.

The specifics of the GloBE rules in the 2024 Tax Reform are outlined as follows:

| Tax Reform 2024 | Effective date |
|--|--|
| The UTPR will be delayed by 12 months. | Effective starting from the fiscal year beginning on or after 1 January 2025 |
| Statutes of limitations are extended to one year from the date the tax authority learns of changes in the effective tax rate (ETR) of GloBE. | |
| National and local governments are not considered as Entities. | |
| Companies with only stateless permanent establishments are not considered as part of a Group. | |
| The definition of a permanent establishment follows the OECD Model Rules. | |
| The head office of the Group is included in the definition of Ultimate Parent Entity (UPE), while sovereign wealth funds held by ultimate parent companies are excluded. | |
| An applicable foreign exchange rate is introduced for converting euro-based consolidated revenue test amounts into local KRW currency. | |
| Only arbitrarily excluded entities can be selected as constituent entities. | Effective starting from the fiscal year beginning on or after 1 January 2024 |
| If the head office's domestic taxation includes the loss of the permanent establishment, the head office's GloBE income or loss calculation includes the permanent establishment's loss, following current AITA rules. | |
| Methods for adjusting GloBE income or loss due to changes in adjusted covered tax have been incorporated. | |
| A top-up tax calculation method has been introduced for scenarios where the top-up tax percentage exceeds 15%. | |
| New requirements have been established to acknowledge qualified domestic minimum top-up tax (QDMTT), exempting the top-up tax of GloBE for parent entities as per OECD/G20 Administrative Guidance. | |

| | |
|--|--|
| Supplemental rules have been introduced for allocating top-up tax between entities in the same jurisdiction according to UTPR for each constituent entity. | Effective starting from the fiscal year beginning on or after 1 January 2025 |
| A provision now mandates allocation to other jurisdictions if certain constituent entities do not incur additional top-up tax under UTPR. | |
| Special rules for restructuring are provided if the jurisdiction of a constituent entity allows fair market value adjustment instead of tax book value. | Effective starting from the fiscal year beginning on or after 1 January 2024 |
| Tax-transparent entities are excluded from applying special rules for investment constituent entities. | |
| A supplemental rule defines the scope of the allocation amount if it includes both actual and deemed allocations. | |
| For groups in the early stages of overseas expansion, a special application period of five years is granted from the initial application of UTPR (starting January 1, 2025). | Effective starting from the fiscal year beginning on or after 1 January 2025 |
| <p>Penalty tax exemption and reduction provisions have been introduced for failures to meet GloBE top-up tax filing and payment obligations during the transitional period:</p> <ul style="list-style-type: none"> • Exemptions for penalties on non-filing or filing returns with understated or overstated tax refunds. • 50% reduction of interest for the delayed/underpaid tax payment. <p>Penalty exemption provisions are now in place for errors in submitting the GloBE information report during the transitional period, subject to conditions.</p> | Effective starting from the fiscal year beginning on or after 1 January 2024 |

Source: Ernst & Young LLP

FOREIGN DIRECT INVESTMENT

A foreign direct investment (FDI) is the purchase of shares or equity in a Korean company by foreign actors for the purpose of establishing a lasting economic relationship, often entailing participation in management or technology transfer. For an investment to qualify, it must amount to at least KRW 100 million and the investor should hold at least 10% of the total voting stocks or the entire equity investment of the Korean corporation or company. If the investor holds less than 10% of the voting stocks or equity investment, the investor is required to appoint an executive to the Korean company.

Under the Foreign Investment Promotion Act, FDI incentives encompass tax support, cash grants, and industrial site assistance. Generally, foreigners can conduct business in Korea without restrictions, unless specified by relevant acts and laws. However, there are certain prohibited and restricted business categories outlined in the FDI regulations as follows. For more information, visit [Invest Korea](#) or [KOTRA](#).

| Types | Business Category |
|--------------------------------|--|
| Prohibited Business categories | <ul style="list-style-type: none"> - Postal services, central banking, individual mutual aid organisations, pension funding, financial market administration, activities auxiliary to financial services, etc. - Legislative, judiciary, administrative bodies, foreign embassies, extra-territorial organisations and bodies - Education (pre-primary, primary, secondary, higher education, universities, graduate schools, schools for people with disabilities, etc.) |

| | | |
|--------------------------------|---|---|
| | | - Artistic, religious, business, professional, environmental advocacy, political, labour organisations, etc. |
| Restricted Business Categories | Not-opened | Nuclear power generation, radio broadcasting, over-the-air broadcasting. |
| | Permitted where the Foreign Investment Ratio is less than 50% | Livestock farming, meat wholesale, transmission and distribution of electric power, trade of electricity, coastal water passenger/freight transport, passenger/freight air transport, publication of magazines and periodicals, etc. |
| | Permitted where the Foreign Investment Ratio is 49% or less | Program distribution, cable networks, broadcasting via satellite and other forms of broadcasting, wired/wireless and satellite communications and other electronic communications. |
| | Permitted where the Foreign Investment Ratio is 30% or less | Hydroelectric power/firepower/solar and sunlight power and other power generation. |
| | Permitted where the Foreign Investment Ratio is less than 25% | News agency business. |
| | Partially Permitted | Growing of cereals and other food crops, manufacture of other basic inorganic chemicals, manufacture of other smelting refining and alloys of non-ferrous metals, disposal of radioactive waste, domestic commercial bank except the National Agricultural Cooperative Foundation and the National Federation of Fisheries Cooperative (finance). |

Source: www.kotra.or.kr

COMPANY ESTABLISHMENT

Foreign investors planning to conduct business in Korea have the option to establish an entity in the form of a subsidiary, branch, or liaison office.

A Foreign-Invested Company under the Foreign Investment Promotion Act

Establishing a business entity in Korea by a foreign individual or corporation is governed by the Foreign Investment Promotion Act (FIPA) and the Commercial Act. For the entity to be recognized as a foreign investment under FIPA, a minimum investment of KRW 100 million is required.

Additionally, a private business established by a foreigner with an investment of at least KRW 100 million qualifies as a foreign investment under FIPA. However, if the investee entity is a private business, it cannot issue a business investment D-8 visa. Instead, a trade D-9 visa is issued for investments totalling KRW 300 million or more.

FDI under FIPA also covers Foreign Direct Investment (FDI), where foreign investors invest a minimum of KRW 100 million to acquire more than 10% of local stocks or for foreign-invested companies to introduce long-term loans exceeding 5 years from overseas parent companies.

Furthermore, FDI incentives include:

- Assured Overseas Wire Transfer / Remittance: FDI-registered companies can securely transfer or remit funds overseas, including profit dividends, liquidation proceeds, sales of shares, interest, and commissions, among other transactions.
- Tax Incentives: Both Korean and local governments provide tax benefits, including corporate tax, income tax, local taxes, and customs duties, in accordance with applicable laws and conditions.
- Visa and Residence Permits: Officers and employees of FDI companies are eligible for D-8 visas, allowing them unrestricted entry, exit, and residence in the country.

For more information, go to www.fdiservice.com.

Domestic Branch and Liaison Office of a Non-resident under the Foreign Exchange Transaction

Act

A "branch" of a foreign company operates a business in Korea that generates profits. The net income of a branch office is automatically consolidated into the headquarters' balance sheet, so it is not classified as foreign direct investment.

On the other hand, a "liaison office" is limited to marketing and support activities and cannot engage in direct sales. It is only subject to the tax regulations of the headquarters country. Unlike a branch, a liaison office is assigned a specific identification number by a jurisdictional tax office without the need for formal registration.

Comparison of Foreign-invested Company, Domestic Branch, and Liaison Office

| Category | Foreign-Invested Company | Domestic Branch | Liaison Office |
|------------------------------|---|--|--|
| Governing law | Foreign Investment Promotion Act | Foreign Exchange Transaction Act | Foreign Exchange Transaction Act |
| Type of corporation | Domestic | Foreign | Foreign |
| Recognised as FDI | Yes | No | No |
| Company name | No restrictions | Shall be identical to that of the headquarters | Shall be identical to that of the headquarters |
| Scope of business activities | No restrictions within the permitted scope | Restricted to same activities as headquarters, within the permitted scope | Not allowed to generate profit, only to establish business contacts |
| Minimum investment amount | KRW 100 million | No restrictions | No restrictions |
| Independence | Separated from headquarters | Subordinated to headquarters | Subordinated to headquarters |
| Loans in Korea | Possible depending on the credit rating of the domestic corporation | Almost impossible | Impossible |
| Establishment procedures | <ol style="list-style-type: none"> 1. FDI notification 2. Remittance of investment funds 3. Registration of incorporation 4. Business registration 5. Registration of a foreign-invested company | <ol style="list-style-type: none"> 1. Notification of domestic branch establishment 2. Registration of incorporation 3. Business registration | <ol style="list-style-type: none"> 1. Notification of domestic branch establishment 2. Registration of identification number |
| Accounting and taxation | Obligation of bookkeeping according To Korean Accepted Accounting Principles and external audit for certain conditions | Obligation of bookkeeping according to Korean Accepted Accounting Principle, but no obligation of external audit | No bookkeeping obligation |
| Corporate tax rate | Tax obligation (refer to pages 4~5) | Tax obligation(refer to pages 4~5) | No tax obligation |
| Taxable income | Total income based on all profit made by the domestic corporation | Total income based on all profit made by the domestic corporation. Branch tax payment occurs in some countries. | No taxable income |
| Tax benefits | Tax benefits for foreign-invested companies and small and middle-sized businesses according to the Restriction of Special Taxation Act | No benefits | No benefits |

Source: www.investkorea.org

The Financial Services Commission (FSC) and the Korean Fair Trade Commission (KFTC) have released updated guidelines on corporate governance disclosure for publicly listed companies. These revised guidelines will come into effect for submissions beginning in 2024, specifically for reports reflecting the performance of the year 2023. The deadline for these submissions is set for the end of May 2024. According to the amended regulations, KOSPI-listed firms with total assets of KRW 500 billion or more must either comply with the core principles of corporate governance or provide explanations for any non-compliance.

(1) Shareholder Protection Guidelines for Business Split-offs:

- Companies are required to outline their internal policies for protecting shareholders when there are changes in ownership structure due to split-offs, mergers, transfers, etc.
- They must disclose internal measures aimed at safeguarding shareholder interests, which may include soliciting opinions from minority shareholders and ensuring the rights of shareholders who oppose changes in ownership structure. Companies should also provide explanations for any instances of non-compliance.
- Additionally, companies are obligated to report on their communication efforts with minority shareholders.

(2) Obligation to Clarify Internal Transactions with Affiliated Entities:

- Companies must be more proactive in providing shareholders with thorough explanations and reasons behind board decisions regarding internal transactions with affiliated entities, as well as self-dealings involving management and controlling shareholders.

CEO Succession Policy and Audit Committee

- Companies need to provide essential details regarding their CEO succession policy.
- Companies with assets ranging from KRW 500 billion to below KRW 2 trillion must outline plans for establishing an audit committee if such plans are in place.

FREE ECONOMIC ZONES

Korea Free Economic Zones (KFEZ) are designated areas aimed at fostering a business-friendly environment for foreign-invested companies in Korea. Since the establishment of the first KFEZ in Incheon in 2003, the number of operational KFEZs has expanded to eight, including locations such as Incheon, Busan-Jinhae, Gwangyang Bay Area, Daegu-Gyeongbuk, Saemangeum-Gunsan, Yellow Sea, East Coast, and Chungbuk.

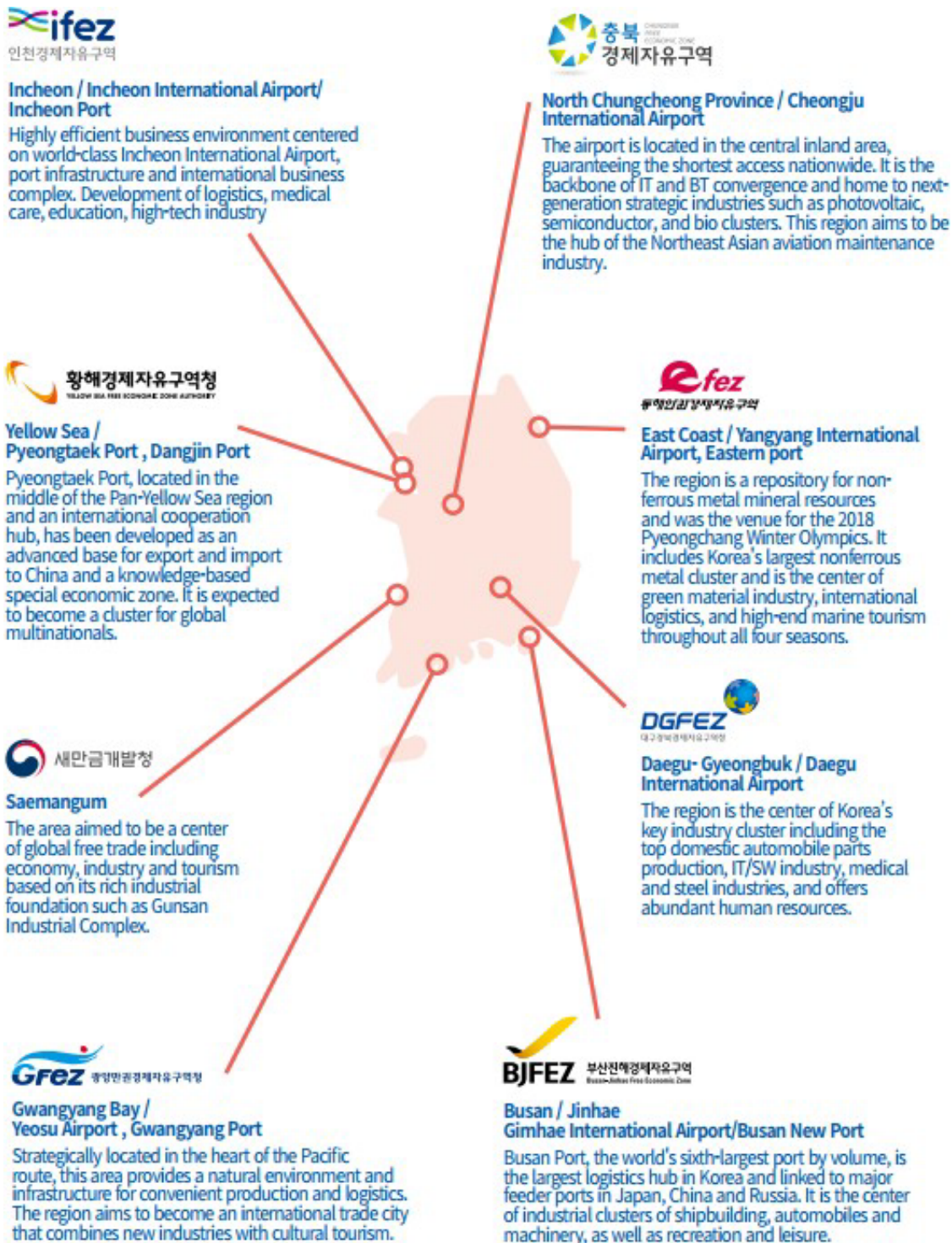
Under the Special Act on Designation and Management of FEZs and Restriction of Special Taxation Act, KFEZs previously provided exemptions or reductions in corporate tax, income tax, tariffs, acquisition tax, and property tax for foreign-invested resident companies and developers.

However, in 2017, the EU classified Korea as a "watch list country for tax breaks," expressing concern that tax incentives for foreign investment in KFEZs constituted discriminatory taxation between domestic and foreign companies. Consequently, the government committed to renegotiating with the EU and subsequently revised the taxation system for KFEZs. As part of these changes, the reduction of corporation tax and income tax for new foreign investments was terminated in 2019. Nonetheless, tax benefits for foreign companies that had already invested remained unchanged, and reductions in tariffs and local taxes were retained.

| Category | Existing Benefits | | Investment Requirements |
|--------------|-------------------|--|-----------------------------|
| National Tax | Tariff | 100% exemption for 5 years | Imported capital goods only |
| Local Tax | Acquisition Tax | 100% tax exemption for up to 15 years per local ordinances | |
| | Property Tax | Tax reductions for up to 15 years following local ordinances | |

Source: www.feز.go.kr

Map - Free Economic Zones in Korea



Source: www.feز.go.kr

NEW GROWTH ENGINE INDUSTRIES AND SOURCE TECHNOLOGIES

Since 2008, the Korean government has been actively promoting industries and technologies essential for the sustained growth of the economy and the creation of employment opportunities. In 2021, a total of 173 technologies across 11 categories and 40 fields were designated as New Growth Engine Industries and Source Technologies. Foreign investment in these sectors received financial support and tax incentives.

Under this policy, foreign-invested companies investing at least US \$2 million in factory facilities within the New Growth Engine Industries and Source Technologies sector are eligible for corporate tax reductions or exemptions for a period of seven years, as per the Restriction of Special Taxation Act.

New Growth Engine Industries and Source Technologies (11 categories, 40 fields)

| Category | Fields |
|--|--|
| Future Vehicles | Autonomous vehicles, electric vehicles |
| Intelligent Information | Artificial intelligence, IoT, cloud, big data, wearable smart appliances, IT convergence, blockchain, quantum computer |
| Next-generation Software & Security | Software technology, convergence security |
| Content | Realistic content, cultural content |
| Next-generation Electronic Information Devices | Intelligent semiconductors and sensors, materials for semiconductors, etc., high-performance displays like OLED, 3D printing, AR devices |
| Next-generation Broadcasting and Telecommunication | 5G mobile telecom, UHD |
| Bio & Health | Bio-medicine, compound medicine, medical devices, healthcare products, biotechnology for agricultural, marine, and food products, materials for biocosmetics |
| New Energy Business, Environment | ESS, new and renewable energy, enhancement of energy efficiency, greenhouse gas reduction, carbon capture and sequestration, nuclear energy |
| Composite & Integrated Materials | High-performance textiles, ultra-light metal, hyper-plastic, titanium |
| Robots | High-tech manufacturing robots, medical robots, service robots, robots in general |
| Aerospace | Unscrewed vehicles, space technology |

Furthermore, Seoul recently announced its commitment to provide up to KRW 200 million in employment maintenance support for foreign-invested companies operating within the New Growth Engines Industries and Source Technologies sectors, which have been adversely affected by the recent COVID-19 crisis. Under Seoul's employment maintenance support policy, foreign-invested companies engaged in industries such as IT convergence, digital content, green industry, business services, fashion design, financial industry, tourism conventions, or bio-metallic fields are eligible for a maximum of 6 months of employment subsidies. For further details, please visit the websites of the [Ministry of Trade, Industry and Energy \(MOTIE\)](#) and the [Seoul Metropolitan Government](#).

The Foreign Investment Promotion Act (established in 1998) serves as the principal legislation governing incentives granted to foreign investors. It assigns specific provisions to its Enforcement Decree and Enforcement Regulations, as well as to the Regulation of Foreign Investment and Technology Importation.

Foreign exchange transactions related to foreign investment are governed by the Foreign Exchange Transactions Act (enacted in 1998). Additionally, exemptions and reductions in applicable taxes related to foreign investment are provided under the Special Tax Treatment Control Act, along with its Enforcement Decree and Enforcement Regulations, and the Regulation on Tax Exemptions or Reductions for Foreign Investment.

Introduced in 2003, the Special Act on Designation and Management of Free Economic Zones is a specialized legislation aimed at fostering foreigner-friendly economic conditions in Korea to encourage increased foreign investment. It outlines specific incentives and special treatments for foreign investors and companies, including exemptions in corporate tax.

In accordance with these laws, the primary incentives and eligibility criteria for foreign investments are outlined as follows:

| Qualifications | | Incentives |
|-----------------------|---|--|
| Tax Reductions | New Growth Engines Industries & Source-Technology Businesses | Technologies by the field that fall into the categories of new growth engines and source technologies; and the establishment and operation of factories to do businesses utilising related technologies, materials, and production processes. |
| | Foreign Investment Zones | Individual type <ul style="list-style-type: none"> - Manufacturing: min. US\$30M - Tourism & resort, international convention: min. US\$20M - Logistics: min. US\$10M - R&D centres: min. US\$2M & min. 10 researchers |
| | | Complex type <ul style="list-style-type: none"> - Manufacturing: min. US\$10M - Logistics: min. US\$5M |
| Free Economic Zones | <ul style="list-style-type: none"> - Manufacturing, tourism & resort, international convention: min. US\$10M - Logistics, medical institutions: min. US\$5M - R&D centres: min. US\$1M (min. 10 researchers) | |

| Qualifications | | Incentives |
|---------------------|--|---|
| Land Support | Min. 30% foreign investment | <ul style="list-style-type: none"> - Reduction of rent fee - Support for infrastructure |
| Cash Grants | <ul style="list-style-type: none"> - Min. 30% foreign investment - Manufacturing: Parts & materials speciality businesses, new growth engines and indigenous-tech businesses - R&D centres: New R&D facilities (min. 5 researchers) | Negotiable |

Source: www.investkorea.org

The following translations of key statutes are provided to enhance foreign investors' comprehension of Korean laws and to encourage their investment in Korea.

Regulations on Operation of Security Review Procedures for Foreign Investments

On August 24, 2022, the Ministry of Trade, Industry and Energy enacted and enforced the Regulations on the Operation of Security Review Procedures for Foreign Investments. These new regulations activate the previously dormant system for conducting national security reviews of foreign investments and complement existing foreign investment filing requirements, listed below.

- Foreign investments subject to national security review encompass investments in companies that:
 - Raise concerns regarding the hindrance of defense materials production
 - Involve the production of goods requiring export approval or licensing, or the possession of military-purpose technology
 - Raise concerns about the potential disclosure of state secrets
 - Raise concerns that the efforts of the UN or other organizations towards international peace and security may be significantly impeded
 - Are highly likely to lead to the disclosure of national core technology.
- Establishment of a new expert committee tasked with conducting preliminary reviews of the aforementioned investments
- Implementation of more specific evaluation standards based on factors such as threats, vulnerabilities, and the potential impact on national security

Source: Kim & Chang

INVESTMENT IN THE STOCK MARKET

Repeal of the Pre-Registration System for Foreign Investors

Historically, the Korean stock market operated under a pre-registration system for foreign investors. This system, established under the Financial Investment Services and Capital Markets Act (FSCMA), aimed to oversee and regulate foreign investment in domestic securities, ensuring financial stability and preventing market manipulation.

However, as of November 14, 2023, the pre-registration system has been abolished. Foreign investors are no longer obligated to undergo this process to invest in the Korean stock market. This shift towards market liberalization is expected to boost foreign investment and bring the Korean market in line with global standards.

Temporary Ban on Short Selling until the 2nd half of 2024

Short selling, the practice of selling securities not owned by the seller, has been a topic of debate worldwide. In 2024, the Korean government took a decisive step to ban short selling with the goal of reducing market volatility and safeguarding retail investors.

The Financial Services Commission (FSC) announced that the government is committed to reforming the system by the end of June 2024. This effort aims to address concerns about short selling creating an unfair advantage and to promote a level playing field in the market.

INTELLECTUAL PROPERTY PROTECTION (IPP)

The Korean Intellectual Property Office (KIPO) serves as the primary governmental body responsible for intellectual property affairs in Korea. For 13 consecutive years, Korea has been exempted from inclusion in the Watch List, as noted in the annual Special 301 Reports issued by the United States Trade Representative (USTR).

Since 2016, KIPO has offered an online [patent document search service](#) accessible to both the public and international users. This service provides comprehensive information on Korean intellectual property

applications, statuses, and trial procedures.

GENERAL DATA PROTECTION LAW

The main law concerning data protection is the Personal Information Protection Act 2011 (PIPA). Amendments made in 2020, which took effect on August 5, 2020, include updated definitions for pseudonymous and anonymous processing. These changes come with corresponding requirements, penalties, and efforts to centralize personal information protection services under the jurisdiction of the Personal Information Protection Commission (PIPC).

In January 2021, an additional amendment to PIPA was proposed. This amendment introduces provisions regarding the right to data portability and the right to opt out of automated decision-making processes. It also expands the methods for transferring personal data overseas and includes pseudonymized data in the scope of information subject to destruction by data handlers.

The revised PIPA, effective as of March 15, 2024, signifies a notable progress in Korea's legal framework for data privacy and protection. It imposes more stringent requirements and wider obligations on organizations handling personal information, with a notable impact on foreign companies operating in or engaging with the Korean market.

The PIPC has issued a comprehensive guide outlining the recent amendments to the Personal Information Protection Act (PIPA), along with an enforcement decree. These amendments introduce significant changes to the legal framework governing personal information. Key modifications include:

- **Universal Dispute Mediation:** The updated PIPA now requires all organizations handling personal data, including private businesses, to engage in dispute mediation. This expands the previous rule that only applied to public institutions, ensuring a more inclusive approach to resolving data protection issues.
- **Standards for Image Processing Devices:** The amendments set forth regulations for both stationary and mobile devices used for processing image data, such as CCTV cameras, drones, and self-driving vehicles. These standards outline guidelines for the lawful and responsible use of video information.
- **Consistent Rules for Online and Offline Activities:** The revised law adopts a "Same Regulation Principles of Same Conduct" approach, aligning regulations across online and offline activities. This simplifies compliance for those handling personal data by applying consistent rules regardless of the platform. This alignment aims to reduce the regulatory burden on those processing personal information.
- **Removal of Online Service Expiration Dates:** The previous system of setting expiration dates for online services has been removed. Instead, a new policy for handling inactive accounts has been implemented.
- **Strengthened Security Measures for Big Data Handlers:** Organizations dealing with large volumes of personal data must now adhere to enhanced security measures, bolstering the protection of sensitive information.
- **Certain entities must appoint a Chief Privacy Officer (CPO) who meets certain qualifications.** A CPO must have at least three years of experience in personal information protection and a total of six years of professional experience in personal information protection, data protection, and information technology.

The criteria for appointing a CPO with these qualifications are as follows:

- (1) **Entities with Substantial Financial Thresholds:** This requirement applies to entities with annual sales revenue or income equal to or exceeding KRW 150 billion.
 - (2) **Extensive Data Processing Entities:** This includes entities that either
 - process sensitive information or unique identification information about at least 50,000 data subjects or
 - handle the personal information of at least 1 million data subjects.
 - (3) **Educational Institutions:** Educational institutions, particularly those classified as schools under the Higher Education Act, with a student enrolment of at least 10,000 as of December 31 of the previous year must designate a CPO.
 - (4) **Healthcare Facilities:** Tertiary hospitals classified under the Medical Service Act are also required to appoint a CPO.
 - (5) **Public Institutions with Significant Data Processing Systems:** Public institutions that operate a personal information processing system meeting the standards established by the Personal Information Protection Committee (PIPC) are similarly obligated to appoint a CPO with the specified qualifications.
- **Penalties for Unauthorized Use of Personal Information:** The Act imposes strict penalties for the unauthorized use of personal information obtained during employment. These penalties may involve monetary fines or imprisonment.
 - **Aggravated Sanctions for Persistent Infringements:** The amendments introduce heightened sanctions for intentional and repeated violations of the Act. Depending on the severity of the breach, fines range from a maximum of 3% of total sales to complete exemption.
 - **Future Guidelines on Information Subjects' Rights:** The PIPC will release additional guidelines outlining the rights of information subjects. This will encompass provisions regarding automated decision-making processes.

These amendments signify a robust step towards enhancing the protection of personal data and aligning Korea's data protection regime with global standards.

EU Adequacy Decision with Korea

On December 17, 2021, the European Commission announced the adoption of its adequacy decision regarding Korea. This decision enables the seamless transfer of personal data between the EU and Korea without the need for further authorization or additional transfer mechanisms. Additionally, the decision extends to transfers of personal data between public authorities.

This adequacy decision means that Europeans' data will have similar protections in Korea as they do in the EU. It incorporates supplementary safeguards mutually agreed upon by both parties during the adequacy dialogue, including enhanced transparency and requirements for onward data transfers. These regulations are legally binding and enforceable by both the PIPC and Korean courts.

For comprehensive details, the European Commission has made available the [complete adequacy decision](#) along with a [Q&A](#) document.

The ROK-EU Digital Partnership

On November 28, 2022, Korea and the EU officially established the ROK-EU Digital Partnership. It covers various areas such as collaborative research, semiconductors, high-performance computing, cybersecurity & Trust, Beyond 5G/6G Mobility Skills, Digital Inclusion, Artificial Intelligence, Online &

Digital Platform Cooperation, Data-related Laws and Systems, Digital Identity & Trust Services, and Digital Trade.

To oversee these initiatives, the Korea-EU Digital Partnership Council will be formed, led by the Korean Minister of Science and ICT (MSIT) and the EU Commissioner for the Internal Market. This council will ensure practical implementation of the initial joint actions outlined in the partnership.

For further details, please refer to the full Digital Partnership document available in the [press release](#) from the MSIT.

New Telecommunication Business Act

The Telecommunications Business Act underwent changes on September 14, 2021. These amendments bring in stricter regulations and more oversight for online platform operators.

One significant change is that application market providers like Apple and Google are now prohibited from mandating in-app payments to content providers. Starting March 2022, the MSIT and the Broadcasting and Communication Commission have the authority to assess how market providers safeguard users and manage their platforms.

MERGER & JOINT VENTURE

Korea's main competition law is the Monopoly Regulation and Fair Trade Act (MRFTA), overseen by the Korea Fair Trade Commission (KFTC). The KFTC regulates mergers and acquisitions under the MRFTA.

As of December 30, 2021, an amendment to the MRFTA mandates notification for transactions that meet specific criteria. These include certain types of business combinations and meeting either the size-of-parties or size-of-transaction thresholds. Here are the types of transactions that require notification under the amended MRFTA:

- (1) Purchasing 20% or more (or 15% or more for Korean-listed companies) of another company's total voting shares.
- (2) Acquiring additional shares to become the largest shareholder, if already owning 20% or more (or 15% or more for Korean-listed companies) of a company's total voting shares.
- (3) Being the largest shareholder in a newly established joint venture company.
- (4) Acquiring all or a significant part of a target company's business or assets.
- (5) Participating in a statutory merger with another company.
- (6) Having interlocking directorates, except between affiliates, where a director or employee of one company concurrently serves as a registered director of another company.

Size-of-Parties Threshold

| | Company 1 | Company 2 |
|---|--|---|
| Total worldwide assets or total worldwide turnover during the immediately preceding business year (including those of its affiliates) | Equal to or greater than KRW 300 billion | Equal to or greater than KRW 30 billion |
| In the case of a foreign-to-foreign merger, the Korean turnover (including those of its affiliates) | Equal to or greater than KRW 30 billion | Equal to or greater than KRW 30 billion |
| In the case of a Korean-to-foreign merger, (Not including a foreign company's acquisition of a Korean company) | | The target foreign company: equal to or greater than KRW 30 billion (including those of its affiliates) |

Size-of-transaction Threshold

| Transaction Value Test | Korean Activities Test |
|-------------------------------|-------------------------------|
|-------------------------------|-------------------------------|

| | | |
|---|--|--|
| The transaction value is KRW 600 billion or more. The transaction value for each merger type is calculated as follows: | | <p>(a) The target has sold or provided products or services to at least 1 million people per month in the Korean market during the immediately preceding three years;</p> <p>(b) The target has either leased research and development (R&D) facilities or used R&D personnel in Korea and has had an annual R&D budget of at least KRW 30 billion for the Korean market during the immediately preceding three years; or</p> <p>(c) The transaction involves facts that are, in effect, equivalent to the above (a) or (b).</p> |
| Share Acquisitions | The sum of the purchase price for the shares to be newly acquired and the book value of the shares already owned, and the value of liabilities of the target | |
| Statutory Mergers | The sum of the value of shares to be issued as consideration for the merger, and the value of liabilities of the target | |
| Business or Asset Transfer | The sum of the purchase price for the business or assets and the value of liabilities to be assumed | |
| Establishment of a Joint Venture Company | The amount of investment to be made by the largest shareholder | |

ENTRY CONDITIONS & VISA APPLICATION

For smooth entry into Korea, foreigners must possess a valid visa, except for Swiss citizens staying less than 90 days. To explore other exemptions, refer to the [Korea Visa Portal](#).

Under Korean Immigration Law, foreigners with long-term visas (91 days or more) must register as aliens within 90 days at the appropriate immigration office. Individuals over 18 must appear in person to register fingerprints.

Korea offers 36 visa types tailored to various social activities and residency purposes. Any foreigner residing in Korea must obtain authorization for activities beyond their visa's scope. Visa applicants should verify their eligibility and submit required documents to a Korean consular office abroad. For further details, visit the [Korea Visa Portal](#) or contact:

Embassy of the Republic of Korea to Switzerland

Kalcheggweg 38
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Tel: +41 31 356-2444
overseas.mofa.go.kr/ch-en/index.do

Electronic Travel Authorization

Since June 2021, Korea has introduced the [Korean Electronic Travel Authorization \(K-ETA\)](#) system for foreign visitors. Nationals of countries eligible for visa-free entry, such as for tourism, must submit their personal and travel details online through ETA before their trip to obtain travel authorization. It's essential to complete the Korean ETA process at least 72 hours before your flight departure. Boarding passes are only issued to passengers with approved travel permission via ETA.

Upon approval, travelers receive waiver of advance travel authorization and fees for re-entry to Korea for up to 2 years.

As part of Visit Korea (2023-2024) campaign, Swiss and Liechtenstein nationals are exempted from K-ETA until 31.12.2024.

LABOUR LAW

Korean Labour Law encompasses four key areas: Individual Labour Relations, Collective Industrial Relations, Cooperative Industrial Relations, and Employment Law. Each section defines the terms of employment contracts and governs the relationship between employers and employees based on specific

characteristics. These standards facilitate autonomous dispute resolution and ensure workers' rights to unionize, aiming to foster mutual benefits for both parties through enhanced participation and cooperation.

The Labour Standards Act (LSA) sets the standard working hours at 8 hours per day and 40 hours per week. Employees are entitled to 15 days of annual paid leave, with an additional day added every two years of consecutive employment, up to a maximum of 25 days. Since July 2018, the maximum weekly working hours have been capped at 52, comprising 40 regular hours and 12 overtime hours. In February 2018, an amendment to the Korean Labour Standards Act addressed a longstanding controversy concerning weekend working hour treatment. Prior to the amendment, interpretation of relevant provisions permitted 16 working hours on paid weekends, despite the Act restricting overtime to 12 hours per week. The new regulations, applicable to all workplaces since July 2021, resolved this inconsistency.

Under Korean Labour Law, paid holidays include public holidays, Labour Day (May 1st), and parental leave with paid time off. Employers are also required to grant their employees at least one day off per week with pay. Additionally, if an employee works on a paid holiday, they are entitled to a holiday work allowance, with a 50% increase for work under 8 hours per day and a 100% increase for time exceeding 8 hours per day.

Korea offers four primary social insurance programs: employment insurance, industrial accident compensation insurance, national pension, and health insurance.

Migrant workers enjoy the same rights as Korean workers and are protected by various labor laws, including the Labour Standards Act, Minimum Wages Act, Wage Claim Guarantee Act, and other relevant labour laws.

Employers are prohibited from unjustly dismissing, laying off, suspending, transferring, or reducing the wages of workers. Any punitive measures must have reasonable grounds accepted by society. The rationale behind punitive actions, such as termination, is typically outlined within labor laws, regulations, and collective bargaining agreements. Dismissal notices must be given at least 30 days in advance, or the employer must provide 30 days' worth of dismissal pay. Termination of employment becomes effective upon issuance of a written notice delineating the grounds and date of dismissal, which is then communicated to the respective employee.

Severance Payment, regulated by the Guarantee of Workers' Retirement Benefits Act, is a significant feature of Korean labor law. Full-time employees, regardless of nationality, are entitled to receive severance pay equivalent to 30 days' average wage for each year of service. This benefit is mandatory for all departing employees, regardless of the circumstances. For further details, visit the Ministry of Employment and Labour [website](#).

Minimum Wage

According to the revised Minimum Wage Act, effective January 2024, the minimum hourly wage will be KRW 9,860. For an employee working 40 hours a week, the minimum monthly salary would amount to KRW 2,060,740, based on 209 hours per month, inclusive of the weekly holiday allowance. The minimum wage mandate extends to all employees defined under the Labour Standards Act of Korea, regardless of their employment status, contractual arrangement, or nationality. However, certain exceptions apply, such as businesses exclusively employing family members or relatives residing in the same household, domestic service users, and seamen regulated by the Seamen Act. Employers failing to meet the minimum wage requirement are subject to penalties imposed by the Ministry of Labour.

Employees working fewer than 8 hours on a public holiday are entitled to 150% of their regular wage, increasing to 200% for hours exceeding 8. Exceptions are granted to five industrial categories: land transportation, water transportation, air transportation, other transportation-related services, and medical and sanitary businesses. However, in these exceptional categories, employers must provide workers with at least 11 hours of rest before the commencement of the next workday.

Act on the Guarantee of Employees' Retirement Benefits

The revised Act on the Guarantee of Employees' Retirement Benefits took effect on 14 April 2022.

| | Before amendment | Effective on 14 April 2022 |
|---|--|--|
| Individual Retirement Plan (IRP) Account Contributions | Payments into Individual Retirement Plan (IRP) accounts are mandated solely for employees enrolled in retirement pension schemes, whether Defined Benefit or Defined Contribution. | Additionally, statutory severance pay is to be deposited into employees' IRP accounts and disbursed on a pre-tax basis, exempt from income tax withholding. |
| Sanctions for unfulfilled funding requirements for a Defined Benefit (DB) plan | None | Employers failing to meet at least one-third of the required minimum funded status target will face an administrative fine of up to KRW 10 million. |
| DB retirement pension schemes (Companies with 300 or more employees) | Employers are granted autonomy in determining the investment strategy for Defined Benefit (DB) plan assets. | <ul style="list-style-type: none"> - Employers are mandated to establish an investment committee comprising 5 to 7 members, convening at least once annually. - In the event that employers fail to meet the minimum funding ratios, the investment committee must include at least one employee representative, one department head with responsibilities pertaining to retirement pensions, and one retirement pension expert. - Failure to establish an investment committee or to develop an asset investment plan may incur an administrative fine of up to KRW 5 million. |
| Implementation of the Small & Medium-sized Enterprises (SME) Retirement Pension Plan (Companies with 30 or fewer employees) | None | <ul style="list-style-type: none"> - The SME Retirement Pension Plan establishes and administers a joint fund funded by contributions from two or more SME employers and workers. - Employers are required to allocate at least 1/12 of an employee's total annual wage annually to the employee's retirement pension account. Upon retirement or separation from the company, employees will receive their retirement benefits from this account. - Under the existing Defined Contribution (DC) plan, employees have the autonomy to directly manage their pension assets. - In contrast, the SME Retirement Pension Fund Plan entrusts the management of assets to the Korea Workers' Compensation & Welfare Services and external professional agencies. |

Source: Kim & Chang

Improper solicitation and graft act (Kim Young-Ran Act)

In October 2016, the Improper Solicitation and Graft Act, commonly referred to as the "Kim Young-Ran Act," was enacted to combat corruption by prohibiting public officials, educators, and journalists from soliciting or accepting unlawful favors in public office settings.

Under this legislation, individuals employed in public office, media, and education who accept bribes totaling KRW 1 million or more may face imprisonment for up to 3 years, irrespective of whether the funds are linked to official duties or if favors are reciprocated. In addition, accepting gifts of less than KRW 1 million is also punishable if they are related to official duties or if they involve a quid pro quo.. Both the recipients of illicit funds and the individuals offering such gifts are subject to penalties.

Nevertheless, exceptions to the anti-graft provisions exist to facilitate smooth job performance. Effective August 30, 2023, an amendment to the Enforcement Decree introduced allowances for certain activities, including social gatherings, rituals, and relief assistance, not directly related to official duties or positions. These exceptions include: (1) social settings permitting drinks and snacks valued up to KRW 50,000; (2) acceptance of personal gifts valued at KRW 50,000 or less; (3) allowance for agricultural or marine products as personal gifts valued up to KRW 150,000; during Lunar New Year and Chuseok holidays, gifts valued up to KRW 300,000 are acceptable; (4) condolence money up to KRW 50,000 and flowers valued up to KRW 100,000.

For more information, visit the Anti-Corruption & Civil Rights Commission [website](#).

Serious Accident Punishment Act (SAPA)

On January 27, 2022, the Serious Accident Punishment Act (SAPA), the nation's new industrial safety law, came into effect. Under SAPA, business owners or managerial personnel in companies with over 50 employees could face criminal penalties, including a minimum one-year prison sentence or fines of up to KRW 1 billion, in cases of fatal industrial accidents where inadequate safety measures are identified.

Business owners or authorized managerial personnel tasked with representing and managing the business hold the responsibility for overseeing safety and health matters within the company. As outlined in the Act, these individuals are obligated to take specific measures to prevent severe industrial accidents:

- Establishing a comprehensive health and safety management system by allocating sufficient workforce and financial resources as needed to prevent accidents;
- Developing an effective contingency plan to mitigate the risk of accident recurrence;
- Adhering to any improvement or corrective orders issued by government authorities; and
- Implementing necessary measures to ensure compliance with all relevant health and safety laws and regulations.

SAPA places personal criminal liabilities on business owners and responsible managerial personnel in cases of severe accidents.

| | Serious Industrial Accidents | Serious Public Accidents |
|---|--|--|
| Fatalities (one or more persons) | Imprisonment of one year or more and/or a criminal fine of up to KRW 1 billion | Imprisonment of one year or more and/or a criminal fine of up to KRW 1 billion |
| Injuries (two or more persons receiving medical treatment of six months or longer due to the same accident; ten or more persons in case of public severe accidents) | Imprisonment of up to seven years or a criminal fine of up to KRW 100 million | Imprisonment of up to seven years or a criminal fine of up to KRW 100 million |

| | | |
|--|---|---|
| Occupational Illness (three or more persons within one year due to the same hazard) | Imprisonment of up to seven years or a criminal fine of up to KRW 100 million | |
| Illness (then or more persons receiving medical treatment of three months or longer due to the same cause) | | Imprisonment of up to seven years or a criminal fine of up to KRW 100 million |

* Punishment will be expanded by 50% in case of repeated violations within five years.

As of January 27, 2024, the scope of the Serious Accident Punishment Act (SAPA) has been expanded to include businesses with fewer than 50 full-time employees (or construction businesses with a total construction cost of less than KRW 5 billion). This extension of the Act obligates smaller businesses to implement adequate safety measures, conduct risk assessments, and provide employee training. It is imperative for smaller businesses to prioritize the development of robust safety policies, not only to comply with legal requirements but also as an integral aspect of responsible business management.

However, it's important to note that the obligations outlined in SAPA will continue to be exempt for businesses employing fewer than five full-time employees, even after January 27, 2024.

ENVIRONMENTAL LAW

Framework Act on Carbon Neutrality and Green Growth for Coping with Climate Crisis

The Framework Act on Carbon Neutrality and Green Growth for Coping with the Climate Crisis, enforced through the Enforcement Decree announced on March 25, 2022, represents a significant step in addressing climate change. Subsequently, on September 25, 2022, the Korean administration introduced the climate change impact assessment system as per the Act's provisions.

Under this legislation, major national plans and large-scale development projects are mandated to:

- (1) Conduct assessments of their impacts on climate change; and
- (2) Implement measures aimed at reducing greenhouse gas emissions and adapting to climate crises.

The Decree specifically identifies ten industries that either emit significant quantities of greenhouse gases or are particularly susceptible to climate crises. These industries are required to assess relevant plans or projects for greenhouse gas reduction and climate crisis adaptation:

- Energy development
- Industrial site and complex development
- Urban development
- Water resource development
- Port construction
- Mountain development
- River use and development
- Road construction
- Airport construction
- Installation of waste and livestock manure treatment facilities

The Ministry of Environment has made the complete Enforcement Decree available at this [link](#).

The Act for Promotion of Transition to a Circular Economy and Society (APTCES)

The Ministry of Environment (MOE) is undertaking significant strides to fortify the legal framework for transitioning towards a resource-circulation economy, aligning with the guiding principles articulated in the Act on Promotion of Transition to a Circular Economy and Society. This strategic endeavor has been realized through a comprehensive amendment of the existing Framework Act on Resources Circulation, effective as of January 1, 2024. As part of this initiative, MOE is diligently advancing plans to designate certain materials as 'circular resources,' subject to rigorous evaluation to ensure compliance with recyclability and safety criteria. This designation will encompass materials such as waste paper and scrap metal, among others.

Moreover, MOE is dedicated to establishing standards emphasizing product durability and reparability to foster sustainable product utilization. This initiative encompasses provisions for spare parts availability and setting delivery timelines.

APTCES outlines fundamental concepts integral to the circular economy, including 'circular raw materials' and 'circular use.' Under APTCES, 'circular raw materials' are defined as materials designated by Presidential Decree capable of circular utilization. These materials encompass substances utilized in daily activities or industries, whether in their original form or following processing.

Furthermore, the Act elaborates on the notion of 'circular use,' encompassing a spectrum of activities outlined by MOE Ordinance. These activities entail repurposing or recycling materials or goods used in daily life or industrial processes, designated as resources. Additionally, 'circular use' extends to efforts aimed at energy recovery or facilitating energy recuperation from waste, in accordance with the Article 2, Item 1 of the Energy Act.

Source: Kim & Chang

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