



Republic of Korea
Tax Guide **2009**



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Correspondent Firm

CITY

Seoul

NAME

Philip K Woo

CONTACT INFORMATION

2 558 8737

philip_woo@daehyuncpas.co.kr

A. TAXES PAYABLE

FEDERAL TAXES AND LEVIES

CORPORATE INCOME TAX: Corporate income taxes vary according to the status of the corporation. A corporation having its head office, its principal office or place of effective management in Korea is a domestic corporation and is defined as a resident corporation. A non-resident (foreign) corporation may be deemed to have a domestic place of business (i.e. a permanent establishment) in Korea if it has any fixed place in Korea where the business of the entity is wholly or partly carried on.

Additionally, where a corporation is represented by a dependent agent in Korea who has the authority to conclude contracts, or fills the orders or secures orders on its behalf, a domestic place of business is deemed to exist. Further, an agent of independent status who performs acts that are an important part of the business of a specific foreign principal will also create a domestic place of business of the principal. Exceptions to the above include where the fixed place is used only for purchasing, storage of property not for sale, advertising, publicity, collecting or furnishing of information, or other activities that are preparatory or auxiliary to the conduct of the business.

Non-resident foreign corporations who do not have a domestic place of business in Korea are generally taxed through the withholding tax mechanism. Under this system, a flat rate on gross receipts from Korean sources is applied.

Both resident corporations and non-resident corporations who have permanent establishments in Korea are liable for corporation tax. Interim corporate income taxes must be paid within eight months from the commencement of the accounting year for the performance of the first six months of the fiscal year. Any remaining corporate income taxes are then payable within three months from the fiscal year-end. Annual and interim corporate tax returns must also be filed along with the tax payments.

The corporate income tax rates are as follows:

Taxable Income (million)	Tax rate (%)
Income up to W200	11
Income over W200	22

In addition to the basic tax rate, there is a resident surtax (inhabitant tax) of 10% of the corporate income tax liability. The effective maximum rate is 24.2%.

CORPORATE INCOME TAX FOR FOREIGN CORPORATIONS:

Foreign corporations with a permanent establishment in Korea must pay corporate income tax on income from Korean sources in the same manner as that applied to a domestic corporation as stated above. However, if the foreign corporation has a branch in Korea and the tax treaty between Korea and the country in which the foreign corporation is a resident allows imposition of a branch profit tax (BPT), then a branch profit tax is imposed on the adjusted taxable income of the Korean branch of the foreign corporation. This branch profit tax is levied in addition to the regular corporation tax under the Corporation Tax Law. The standard rate of BPT is 25%, although reduced rates of between 5% and 15% apply where provided for by a tax treaty. The tax is based on the 'adjusted taxable income' being taxable income less regular corporate income tax and an amount deemed to have been reinvested for the operation of the permanent establishment based on the deemed capital base of the branch as if it were a separate comparable enterprise.

CAPITAL GAINS TAX: Capital gains are included in corporate taxable income and capital losses are deductible from taxable income.

There is a limited exemption for non-resident portfolio investors in shares in Korean companies. This generally applies to investors owning less than

25% of the issued shares (or securities) of the company throughout the five years prior to the transfer of the shares. This exception only applies where the disposal is to a non-Korean resident without a place of business in Korea and where there are reciprocal arrangements available in the vendor's country of residence.

VALUE ADDED TAX (VAT): Value added tax is levied on the supply of most goods and services in Korea and on the importation of goods at a rate of 10%. Certain favoured or essential supplies are exempted. Export goods and services are subject to VAT but the tax rate is reduced to zero per cent. VAT returns must be filed quarterly.

Valid documentation must be provided to claim the input tax credit such as credit card payment receipts or VAT invoices. Cash-register receipts are no longer accepted as valid documentation.

Small traders who are not allowed input tax credit may, under the present law, deduct 15% to 40% of the input tax amount from the total VAT payable.

INHERITANCE AND GIFT TAXES: Individuals and non-profit companies that acquire property through inheritance or bequest are liable for Inheritance Tax. A gift tax is payable by resident beneficiaries and non-resident beneficiaries who receive property located in Korea. Both taxes are imposed at varying rates based on the tax value of the property.

MINIMUM TAX: A minimum tax liability is set for corporate tax payers, with some exceptions. The minimum amount payable is 11% of the taxable income of Won 100 billion or less and 14% of taxable income above Won 100 billion (8% flat-rate for small and medium-sized enterprises – SMEs) before various exemptions and deductions prescribed in the Special Tax Treatment Control Law and other laws.

Individuals are also subject to a minimum tax of 35% of the taxable income before various exemptions and deductions under the Special Tax Treatment Control Law.

LOCAL TAXES: Local taxes consist of both provincial taxes and city and county taxes. Examples of these taxes include acquisition and registration tax, inhabitant tax, (a surtax on income tax and corporation tax plus a flat rate tax on capital), license tax, business place tax, local education tax, various property taxes, automobile tax, local development tax, etc.

Composite land tax has been merged into property taxes and Comprehensive Real Estate Holding Tax has been newly introduced as a national tax.

OTHER TAXES: Customs duties are imposed on imported goods. Stamp taxes apply to special documents including contracts and permits. Certain commodities such as specific luxuries and high-priced durable consumer goods, whether imported or produced locally, are subject to special consumption taxes. A securities transaction tax is imposed at the time of transfer of the securities. However, if domestic securities are traded on foreign stock exchanges like the New York stock exchange, NASDAQ, Tokyo Stock exchange, etc., then the securities transaction tax is exempted. An education tax is levied as a surcharge on certain tax liabilities such as special consumption tax, transportation tax and liquor tax and imposed as a separate tax on banking and insurance businesses.

B. DETERMINATION OF CORPORATION TAXABLE INCOME

Taxable income of a corporation is defined as gross income less the cost of goods sold or services provided and other amounts that are allowed as deductions. Gross income consists of gains, profits, income from trade and commerce, dealings in property, rents, royalties, and income derived from any transactions carried on for gain or profit. Expenses incurred in the normal operations of a business are generally deductible, subject to specific exclusions. Special rules apply with respect to the categories listed below.

INVENTORY VALUATION: Inventories are generally stated at the lower of cost or net realisable value or cost, although securities and shares must be valued using the cost method (Devaluation could be allowed in some cases). When applying the cost method, any one of six valuation methods, including FIFO, can be elected for tax purposes. The tax office should be notified of the valuation method selected. Failure to notify will result in the FIFO method being applied. Inventory valuation methods must be consistent for book and tax purposes.

DEPRECIATION: For tangible fixed assets, either the fixed percentage declining-balance method or the straight-line method may be elected by notifying the taxpayer's choice to the tax authorities. For buildings and intangible fixed assets, the straight-line method must be used. For mining rights, either of the units of production method or the straight-line method may be used. Elections can be made to determine an asset's useful life. However, it must fall within a range of 25% variance to the useful life prescribed by the Corporation Tax Law. Useful asset lives are stipulated in regulations made under the Corporation Tax Law. This can be increased or decreased to a 50% variance for certain heavily used or high technology assets by prior agreement with the tax authorities. Book depreciation is not required to conform to tax depreciation and there are no provisions requiring recapture of depreciation upon sale of properties.

CAPITAL GAINS AND LOSSES: See discussions above. Net gains and losses are normally considered to form part of normal taxable income.

DIVIDENDS: Korean corporations are generally taxed on all dividends received. However, for the purpose of avoiding double taxation on dividend income, there are three exceptional provisions in corporate income tax law as follows:

- (1) 90% of dividends received by an institutional investor from a company listed on the Korean Stock Exchange are not subject to corporate income tax where the institutional investor owns 10% or less of the listed company.
- (2) In the case of a holding company established in accordance with anti-trust and fair trade law, dividends received from subsidiaries are granted a partial exemption as follows:

Type of Subsidiary	Percentage of Shares Held in Subsidiary	Proportion of Dividends Excluded from Taxable Income
Non-listed corporation (venture company)	100%	100%
	Above 80%	90% (for 2008), 100% (for and after 2009)
	(20%) 40% – 80%	80%
Listed corporation	100%	100%
	Above 40%	90% (for 2008), 100% (for and after 2009)
	20% – 40%	80%

- (3) In the case of a domestic corporation other than holding companies, receiving dividends from another domestic corporation, a partial exemption is provided as follows:

Type of Domestic Corporation	Proportion of Shares of Subsidiaries Owned by a Corporation other than Holding Companies	Proportion of Exclusion of Dividends from Taxable Income
Non-listed corporation	100%	100%
	Above 50%	50%
	50% or below 50%	30%
Listed corporation	100%	100%
	Above 30%	50%
	30% or below 30%	30%

INTEREST DEDUCTIONS: Interest incurred in the normal operation of an enterprise is deductible as long as the related loan is used for business purposes. However, exceptions exist for interest incurred relating to borrowings of which interest payee is unknown for non-business purposes and construction.

LOSSES: Loss carry over for five years is permitted. Loss carry back is not permitted. However, small and medium enterprises can also use a one-year carry back for losses incurred. This carry back enables them to request a refund of any corporation tax paid in the preceding year.

FOREIGN SOURCED INCOME: Income of an overseas branch is included in the taxable income of the domestic corporation, while income of a foreign subsidiary is only recognised by a domestic corporation upon the declaration of a dividend. Gains from the sale of shares of a foreign subsidiary are included in the taxable income of a domestic corporation as are interest and royalties from a foreign subsidiary.

INCENTIVES: Tax incentives are provided under the special tax treatment control law (STTCL). There are a number of tax incentives in Korea related to a small and medium enterprise's business performance, international capital movement, investment promotion, business restructuring, public business promotion and foreigners' investment etc.

Tax incentives in the new regime are aimed at promoting foreign investments which:

- utilise highly advanced technology or industry-supporting service businesses to improve the international competitiveness of Korean industries
- are made in locations designated for foreign investors (Foreign Investment Zones (FIZs)); or enter into the areas of business designated by presidential decree (Free Trade Zone or Free Economy Zone or Industrial Complex) with investment amount of US\$ 5 million to US\$ 30 million or more depending upon the categories of business such as manufacturing, tourism etc.

The special tax incentives are:

- 100% income tax exemption for foreign-owned companies for three to five years depending upon the investments and businesses entered into. If the company is not 100% foreign-owned, the exemption is limited to the percentage of foreign shareholding.
- Any dividends paid to foreign investors are exempted from tax for the same time periods and rates as outlined above.
- Withholding tax on royalty payments to a supplier of technology under a technology inducement contract is exempt for five years. The contract must be reported to and approved by the government and the exemption applies from the date of acceptance by the government.
- Capital goods imported as an equity investment in a foreign-owned company will be exempted from import customs duty, where certain conditions are met for three years from the commencement of its business.
- A full exemption from acquisitions tax, registration tax, property tax and aggregate land tax is provided to foreign-owned companies for five years (or three in free trade zone etc) from the commencement of its business and 50% exempted for the following two years.

Under the STTCL, there are many tax incentives designed to encourage investment into specific industries within Korea.

OTHERS: The deduction of entertainment expenses is limited in two ways.

Firstly, threshold limits apply to restrict the amount that can be claimed as a deduction. These thresholds vary depending on the annual revenue of the particular taxpayer.

Secondly, where entertainment expenses exceed KRW 30,000(KRW 50,000 for 2007, KRW 10,000 for and after 2009) or KRW 100,000 for clients' wedding or funeral-related expenses per payment, a deduction can only be claimed where the expenses are adequately substantiated by a cash receipt, a corporate credit card or a formal invoice issued under the value added tax law. A cash receipt system has been introduced in which details of cash transactions between a vendor issuing receipts and a consumer are reported to the National Tax Service (NTS) by the vendor and the consumer is allowed a deduction from income on his or her tax return based on the amount of the cash transactions. This regime is introduced to improve compliance of the self-employed.

C. FOREIGN TAX RELIEF

Taxes imposed by foreign governments on income recognised by a domestic taxpayer are allowed as a credit against Korean income taxes or as deductible expenses in computing the taxable income. In most cases, those foreign taxes will be applied as a credit. However, there is a limit (per country limit and total limit are optional) on the amount of credit for foreign taxes paid. The amount of the tax credit is limited to the lower of the foreign taxes actually paid and the additional tax in Korea resulting from the inclusion of the foreign income. Unused foreign tax credits can be carried forward for a maximum of five years.

D. CORPORATE GROUPS

There are no provisions for group taxation or for offsetting losses of one company against another.

E. RELATED PARTY TRANSACTIONS

Where an act of a corporation or its calculation of corporate income unreasonably reduces the tax burden and a domestic related party is involved, the tax authorities can recalculate the corporation's taxable income based on arm's length prices.

For cross-border related party transactions, detailed pricing rules apply from 1 January 1996 which closely follow US principles. A correlative adjustment to avoid double taxation internationally is allowed when certain conditions are met. This law also provides for the negotiation of advance pricing agreements.

Several other anti avoidance provisions, including thin capitalisation and controlled foreign corporations (CFC) rules, apply from 1 January 1997. The thin capitalisation rules disallow interest deductions in respect of interest paid on loans to overseas parents where the debt to equity ratio exceeds 3:1 (6:1 for financial institutions). There is also an exception for loans which comply with the arm's length principle.

The CFC rules generally apply where a Korean company owns at least 20% of a subsidiary's share capital and the effective offshore tax rate of the subsidiary is 15% or less. There is an exception for bona fide businesses carried on through an office, shop or factory.

F. WITHHOLDING TAXES

Taxes are usually withheld at a rate of 25% from dividends, interest and royalties paid to non-residents.

G. EXCHANGE CONTROL

The Foreign Exchange Transaction Regulation (FETR) was revised with respect to payment or receipts for trades, services, and capital transactions including portfolio inbound investment, effective 1 June 1998.

Under the revised FETR, a resident borrower should report to a foreign exchange bank when he borrows dollars or other foreign currencies from an overseas lender under arrangements in force for more than one year. A report should be made to the MOFE when the borrowing per case exceeds US\$30,000,000. In addition to these revisions, the Ministry of Finance and Economy undertook another major revision that became effective on 1 April 1999. Such revision included more extensive de-regulation on cross-border payments and receipts, such as allowing Won currency to be used in foreign trade and the use of dollars in domestic transactions.

H. PERSONAL TAX

All individuals in Korea are classified as either residents or non-residents for income tax purposes. A resident is an individual having Korean domicile or a place of residence in Korea for one year or more, an individual having an occupation that would generally require him to reside in Korea for one year or more, or an individual whose family accompanies him to Korea and who maintains substantial assets in Korea.

Generally, residency is determined on a 'facts and circumstances' test that is evaluated on a case by case basis.

A non-resident is an individual other than a resident.

Korean citizens and residents for tax purposes are subject to Korean income tax on worldwide income including employment income, business profits, dividends and other passive income, severance pay, forestry income and capital gains. An expatriate who is a non-resident is taxed only on Korean sourced income. A non-resident is denied some of the personal deductions granted to residents and citizens. Domestic employers are required to withhold personal income tax at source on regular payments of wages and salaries to their employees.

The following tax table summarises the personal income tax rates applied to worldwide income, severance pay and forestry income for 2008. Higher tax rates apply to some capital gains. Standard deductions and tax credits apply to employment income. Non residents are taxed by withholding at rates varying from 2% to 25%.

In addition to these tax rates, inhabitant tax is levied at 10% on the income tax liability.

Annual Taxable Income Base Tax (KRW)	Tax Rate on Excess
0–12,000,000	7%
12,000,001–46,000,000	16%
46,000,001–88,000,000	25%
Above 88,000,000	34%

The tax year for individuals is based on the calendar year starting 1 January to 31 December.

I. TREATY AND NON-TREATY WITHHOLDING TAX RATES*

	Interest (%)	Dividends (%)	Royalties (%)
Non-Treaty countries (1)			
Non-resident corporations and individuals	25	25	25
<i>Treaty countries:</i>			
Australia	15	15	15
Austria	10	15 (1)	10 (8)
Bangladesh	10	15 (1)	10 (8)
Belarus	10	15 (1)	5
Belgium	10	15	10
Brazil	15 (1)	15	15 (14)
Bulgaria	10	10 (1)	5
Canada	10	5/15 (1)	10
Chile	15 (22)	10 (1)	10 (23)
China	10	10 (1)	10
Croatia	5	10 (1)	– (26)
Czech Republic	10	10 (1)	0/10 (7)
Denmark	15	15	15 (7)
Egypt	15 (7)	15 (1)	15
Fiji	10	15 (1)	10
Finland	10	15 (1)	10
France	10	15 (1)	10
Germany	10	15 (1)	10 (8)
Greece	8	15 (1)	10
Hungary	–	10 (1)	–
India	15 (4)	20 (1)	15
Indonesia	10	15 (1)	15
Ireland	– (26)	15 (1)	– (26)
Israel	10 (16)	15 (1)	5 (13)
Italy	10	15 (1)	10
Japan	10	15 (1)	10
Jordan	10	10	10
Kazakhstan	10	15 (1)	10
Kuwait	10	10	15
Laos	10	10 (1)	5
Luxembourg	10	15 (1)	15 (2)
Malaysia	15	15 (1)	10/15 (3)
Malta	10	15 (1)	– (26)
Mexico	15 (10)	15 (1)	10
Morocco	10	5/10 (1)	5/10 (18)

	Interest (%)	Dividends (%)	Royalties (%)
Myanmar	10 (24)	10	15 (25)
Nepal	10 (21)	15 (1)	15
Netherlands	15 (4)	15 (1)	15 (3)
New Zealand	10	15	10
Norway	15	15	10/15 (3)
Pakistan	12.5	12.5 (1)	10
Papua New Guinea	10	15	10
Philippines	15 (5)	15 (1)	10/15 (19)
Poland	10	10 (1)	10
Portugal	15	15 (1)	10
Romania	10	10 (1)	10 (12)
Russian Federation	–	10 (11)	5
Singapore	10	15 (1)	15
Slovak Republic	10	10 (1)	10 (20)
Slovenia	5	15 (1)	5
South Africa	10	15 (1)	10
Spain	10	15 (1)	10
Sri Lanka	10	15 (1)	10
Sweden	15 (4)	15 (1)	15 (3)
Switzerland	10	15 (1)	10
Thailand	10	15/20 (6)	15
Tunisia	12 (4)	15	15
Turkey	15 (4)	20 (1)	10
Ukraine	5	15 (1)	5
United Arab Emirates	10	10 (1)	–
United Kingdom	10	15 (1)	10 (8)
United States	12	15 (1)	10/15 (9)
Uzbekistan	5	15 (1)	2/5 (13)
Vietnam	10	10	15 (15)

* This table only covers selective treaty countries.

- 1 Rates may vary if the payment is made to a company owning shares in the paying company.
- 2 10% on royalties for using industrial, commercial or academic equipment or information.
- 3 15% on royalties for copyright and 10% on royalties for patents.
- 4 Dependent upon the term of the loan the rate may vary.
- 5 10% on public bonds and debentures.
- 6 15% if paid to a company controlling 10% or more of the shares of an industrial concern, 20% if the paying company is an industrial concern or if the dividend is paid to a company controlling 25% or more of the shares of the paying company, and 25% for other dividends.
- 7 0% on royalties for copyright.
- 8 2% on royalties for industrial equipment.
- 9 10% on royalties for literary, dramatic, musical or artistic work including films.
- 10 10% on bank loans until 5 November 1999, 5% on bank loans thereafter.
- 11 5% if paid to a company investing US\$ 100,000 or more and controlling 30% or more of the shares of the paying company.
- 12 7% on royalties for patents, trademarks, designs or utility models and secret formulae or secret processes.
- 13 2% on royalties paid for the use of machinery.

- 14 25% for royalties for using trademark.
- 15 5% on royalties for patents, trademarks, designs or utility models and secret formulae or secret processes.
- 16 7.5% on interest from banking institute and 0% on government or public bonds.
- 17 10% on royalties for using industrial equipment.
- 18 5% on royalties for copyright.
- 19 10% on royalties under Philippines Investment Promotion Law.
- 20 0% on royalties for copyright of literary, artistic or scientific work including cinematograph films, and films or tapes for television or radio broadcasting.
- 21 0% on interest arising in a Contracting State and derived by the Government of the other Contracting State including political subdivisions and local authorities thereof, the Central Bank of that other State or any financial institution performing functions of a governmental nature.
- 22 10% on interest derived from loans granted by banks and insurance companies.
- 23 5% on royalties which are paid for the use of, or the right to use, industrial, commercial or scientific equipment.
- 24 0% on interest arising in a Contracting State and paid to the Government and any other institution performing functions of a governmental nature of the other Contracting State.
- 25 10% on royalty 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.
- 26 The domestic rate applies. There is no reduction under the treaty.



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