



Doing business in Korea 2022

Making the most of an attractive market

mazars



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Editorial

Mazars in Korea

Korea is an exciting country with a strong global presence in several industries such as automotive, semiconductors, and shipbuilding. It ranks as the 10th largest GDP in the world for 2020. Its trade volume is also the 8th largest in the world, based on 2020 data. At the same time, doing business in Korea is relatively simple: it ranks as the 5th in the World Bank measure of ease of doing business.

Still, any investor in Korea should carefully consider its set-up in this country and review the legal, tax, accounting, human resources, and other relevant matters for a successful entry into the Korean market. This guide has been prepared for the assistance of those investors interested in doing business in Korea.

It does not exhaustively cover the subjects it treats, but it is intended to answer some of the most important questions they may have. When specific issues arise in practice, it will often be necessary to consider the relevant laws and regulations and obtain appropriate professional advice.

Mazars in Korea specialises in audit, accounting, and advisory services across an extensive range of markets and sectors. We support companies doing business in Korea. I hope this guide will help you with your business in Korea.



Julien Herveau

Managing Director,
Mazars in Korea





General information

Key country facts

100.21tkm
Territory

51.8m
Population (2020)

1USD = **1.186**KRW
Currency (31 December, 2021)

10th
GDP ranking (2020)

5th
Ease of doing business (2020)

Foreign investment

Business organisations available to foreigners



Foreign investment

Business organisations available to foreigners

Entering the market by establishing a subsidiary or an individual entrepreneur is subject to the Foreign Investment Promotion Act. Also, entering the market through establishing a local branch or office is subject to the Foreign Exchange Transaction Act.

Foreign business restrictions fall into two categories: prohibited activities and partially restricted activities. Prohibited activities include public interest industries such as postal services, banking, security trading, public education, and radio & television. Within the agriculture sector, rice and barley farming are restricted. In total, 61 types of business are prohibited from foreign investors. Most partially restricted activities also have public interest traits. Foreign shareholdings in these activities are allowed up to 50%. Partially restricted business activities include fishing, newspapers and magazines, beef cattle farming & distribution, internal transportation, telecommunications, electronic network business, and power plants (except nuclear power).

Individual entrepreneur

A foreigner investing more than KRW 100 million as an individual is also considered a foreign investment and is subject to the Foreign Investment Promotion Act, just as a subsidiary is. Even though operating a business as an individual entrepreneur has the advantage of a simpler process for the temporary and permanent closure of the business, it can be disadvantageous to recruit a reliable workforce and for finances, as a foreigner's credit rating is relatively low.

Subsidiary

A subsidiary established by a foreigner is considered to be a native corporation since it is subject to the Foreign Investment Promotion Act and other commercial laws. Here, a foreigner's definition is an individual with foreign citizenship, a corporation established under a foreign regulation, or an organization executing Economic Development Cooperation tasks for a foreign government. A foreigner must invest more than KRW 100 million in order to be acknowledged as a foreign investor under the Foreign Investment Promotion Act. The majority of companies are Chusik Hoesa (stock companies). However, Yuhan Hoesa (private companies) may also

be suitable for foreigners. Domestic, commercial laws apply to investments made through a company.

Branch

In order for a foreign company to carry out general business tasks, it has to nominate a representative in the domestic branch, to follow through with the branch founding process in accordance with the Foreign Exchange Transaction Act, and obtain a registration from the court.

A branch is recognised as a permanent establishment since it operates a business activity that generates revenue within the country. The revenue generated from operating a business within the country is subject to the same corporate tax applied to standard native corporations.

Liaison office

Unlike a branch, a liaison office is not permitted to perform a business activity. Since it fulfils non-business tasks for the head office, it is only required to obtain a unique business number as a business owner registered from the jurisdiction tax office without the need for a court registration. The tasks performed by a liaison office are limited to preliminary and auxiliary works such as business-related contact with the head office, market research, research and development activities, quality assurance, advertisement, data collection, etc. Since there is no source of domestic revenue, direct sales or maintaining a stock of products for the purpose of sale are not permitted.

Taxation
Corporate taxation



Taxation

Corporate taxation

In general, one accounting year of a corporation is decided in accordance with the law or the corporation's articles of incorporation. However, the period cannot exceed one year. In the case where the accounting period is not specified in the law or the articles of incorporation, the period can be selected with registration, and without registration, the period becomes 1 January to 31 December.

1. Scope of corporate taxation

- Corporate tax law, income tax law
- Special tax treatment control law: Corporation and income tax reduction and exemption related to the domestic source of income tax reduction and exemption to foreign investment
- Tax treaties: Limitation and modification of the application of domestic tax regulation
- Coordination of international tax law:
 - I. Transfer pricing taxation
 - II. The insufficient capital tax system
 - III. Tax haven taxation system

2. Tax residency

In general, taxable income is different according to the type of entity, as shown in the following table.

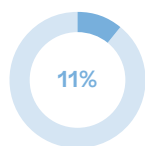
Type of entity	Scope of taxable income
A resident or a domestic corporation	Worldwide income
Non-resident or non-domestic corporation with the domestic establishment (or permanent establishment)	All income related to the domestic establishment
Non-domestic establishment	The portion of domestic source income which is listed in tax laws

A corporation with its head office, the main office, or a physical administration location within the country is considered a domestic corporation. A corporation whose head office or the main office is located in a foreign country (on the condition that it does not own a physical administration office within the location) is categorised as a foreign corporation.

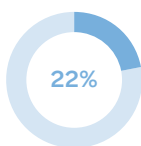
Taxation

Corporate taxation

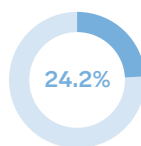
3. Tax rate



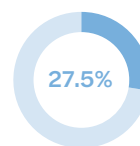
Amount below
KRW 200 million



Amount exceeding
KRW 200 million and
below KRW 20 billion



Amount exceeding
KRW 20 billion and
below KRW 300 billion



Amount exceeding
KRW 300 billion

4. Taxable income

Type of corporation		Income for the business year	Capital gain	Scope of taxable income
Domestic corporation	Profit corporation	All income from the domestic and foreign source	Subject to tax	Aggregate taxation
	Non-profit corporation	Income from listed revenue-making business within domestic and foreign sources	Subject to tax	Aggregate taxation
Foreign corporation	Profit corporation	Domestic source income	Subject to tax	Separate taxation (withholding tax)
	Non-profit corporation	Income from listed revenue-making business within domestic source income	Subject to tax	Separate taxation (withholding tax)
National, local organisation			Tax-free	

5. Self-reporting system

Corporate taxation is a self-reporting system. A corporation with tax obligations must report and make the payment by self-assessment to the district tax office within the three months following its business year-end.

6. Loss carried forward

Loss carried forward can be deducted for up to 15 years for the losses reported since 1 January 2021. In the case of Small and Medium-sized Enterprises (“SME”), there is no limitation for the annual deduction amounts of loss carried forward. However, the maximum amount that can be deducted in a year is 60% of the fiscal year’s taxable income for non-SME taxpayers. For SMEs, a loss carried forward for a particular year can be retroactively applied to the most recent previous year’s tax amount.

7. Consolidated taxation system

A domestic corporation and other domestic corporations (or “Completely Controlled Subsidiary”) entirely controlled by the corresponding domestic corporation can apply a consolidated taxation system by obtaining approval from the National Tax Service.

If there are two or more Completely Controlled Subsidiaries, all connected corporations shall adopt a consolidated taxation system. “Completely Controlled” means owning 100% of the shares. Within 5% of total issued shares, when the shares are held by employees through an employee stock ownership association, the association itself, or issued or transferred upon exercising stock options, the corporations are deemed “Completely Controlled.”

Taxation

Corporate taxation

8. Taxation of foreign corporations

The income of a foreign company branch is generally assessed in the same way and subject to the same tax rate as that of a locally incorporated subsidiary. The controller is required to have transactions between the Korean branch or subsidiary and its head office to be conducted on an arm's length basis.

9. Principle of substance over form

Principle of substance over form related to a transaction: a person to whom the transaction is substantially credited is a subject to the tax assessment. Principle of substance-related to business contents: appropriate tax law is applied according to substantial contents disregarding its business title or form.

11. Withholding taxes

In the case of non-resident recipients, tax can be collected at the source. The Korean entity is required to withhold tax before paying or crediting specific categories of income to any non-resident recipient.

The rates of withholding taxes are as follows :

Interest, dividend, royalties, and other income*	20%
Business income*	2%
Rent for the ship, etc.*	2%
Personal service fee*	20%
Real estate and securities capital gain: paid amount*	10%
Real estate and securities capital gain: capital gain*	20%

*10% of tax amount calculated from the above tax rates are added as local income tax

The above withholding tax rates may be mitigated where Korea has a double tax treaty with the recipient country. The withheld tax must be remitted to the Tax Authorities by the 10th day of the month following the month in which the non-resident was paid/credited. When failing to comply with the obligation, penalties are imposed.

12. Double tax treaties

Korea has an extensive network of double taxation agreements with other countries.

10. Limitation of interest deductions

In cases where a Korean subsidiary takes out a loan which amount is twice as large as its equity (2:1 debt to equity ratio in general or 6:1 in the case of financial institutions) from its foreign controlling shareholder, the interest payable on the excess portion of the borrowing is characterised as dividends. The deemed dividends are subject to withholding tax and treated as non-deductible expenses for corporate income tax purposes (Thin-cap rules). As the tax reform legislation introduced the EBITA rule, starting from 1 January 2019, a Korean subsidiary's deduction of interest payments to foreign related parties will be limited to the lower of the amount resulting from the application of a fixed-ratio rule (i.e., 30% of EBITDA) or the Thin-cap rules.

Taxation

Personal taxation

In principle, a legal person with a tax obligation to pay for the income tax is an individual (resident and non-resident); however, in exceptional cases, a division, a foundation, and other organisations not classified as a corporation and an organisation considered as a resident or an organisation seen as a partnership have tax obligations to pay income taxes.

In the case of corporations, the withholding tax obligator must pay income tax. According to the Korean tax law, a resident is an individual with a domestic address who has resided there for more than 183 days; and a non-resident refers to an individual who is not a resident. The income tax law introduces a concept of “temporary residents” and acknowledges their limited tax obligations.

1. Range of taxable income

Classification		Judgement standard	Tax obligation
Resident	Permanent resident	A domestic address or resided for more than 183 days. Not a temporary resident	Unlimited tax obligation of domestic and foreign income
	Temporary resident	A domestic address or resided for more than 183 days. A foreign resident with a total of fewer than five years of having a domestic address or residing within the country, which is ten years before its closing date for the taxation period	Domestic source of income In the case of income generated from overseas, limited tax obligation related to income that has been paid within Korea or remitted to Korea
Non-resident		Not a resident	Limited tax obligation of domestic source income

2. Classification of income

The Korean tax law does not consider all income taxable and restrictively enumerates taxable income in a positive system. However, exceptionally it uses the concept of a negative system regarding interest income and dividend income.

Total income	Interest income
	Dividend income
	Business income
	Wage and salary
	Annuity income
	Other incomes
Retirement income	
Capital gain	

Taxation

Personal taxation

3. Taxation system

(A) Resident

The way for a resident to pay income tax is categorised as an aggregate taxation system, a separate taxation system, and a classified taxation system, based on its income type:

- Aggregate taxation system: calculating tax base and amount by aggregating all the income identified by its source (Interest income, dividend income, realty rent income, business income, wage, salary income, annuity income, and other incomes).
- Separate taxation system: fulfilment of tax obligation as a way of withholding (among interest income, dividend income, realty rent income, wage, and salary income, annuity income, or other incomes levied in the aggregate taxation system, some incomes selected by the tax law).
- Classified taxation system: the income accumulated over a long period (retirement income and capital gain) falls under this system.

(B) Non-resident

A non-resident is only subject to pay income tax on a domestic source of income, and the determination of applicable taxation system is based on its ownership of a domestic business place and existence of realty rent income:

- Aggregate taxation system: a non-resident with a domestic business place or realty rent income such as interest, dividend, rent, business, personal service, wage and salary, and other incomes imputed to the domestic business place is subject to tax according to the aggregate taxation system.
- Separate taxation system: a non-resident without a domestic business place with interest and dividend income being imputed to the domestic business place has to pay withholding tax as a means of fulfilment of tax obligation according to relevant double tax treaty.
- Classified taxation system: in the case of retirement income and capital gain, the process is identical with a resident to be separately categorised by the classified taxation system.

4. Taxation period

In principle, the taxation period for income tax is from 1 January to 31 December of each year. If a resident is becoming a non-resident by moving their address or residence out of the country, the taxation period is from 1 January to the departure date for paying exit tax.

5. Tax rates

The aggregate income tax rate is as follows:

Aggregate income taxation standard	Tax rate
Below KRW 12 million	6.6%
KRW 12 million ~ below KRW 46 million	16.5%
KRW 46 million ~ below KRW 88 million	26.4%
KRW 88 million ~ below KRW 150 million	38.5%
KRW 150 million ~ below KRW 300 million	41.8%
KRW 300 Million ~ below KRW 500million	44%
KRW 500 million ~ below KRW 1 billion	46.2%
KRW 1 billion and above	49.5%

(*)Including local income tax equal to 10% of the tax amount

Taxation

Personal taxation

6. Withholding tax for non-resident

In the case of non-resident recipients, tax can be collected at the source. The Korean entity is required to withhold tax before paying or crediting specific categories of income to any non-resident recipient.

The rates of withholding taxes are as follows :

Interest, dividend, royalties, and other income*	20%
Business income*	2%
Rent for the ship, etc.*	2%
Personal service fee*	20%
Real estate and securities capital gain: paid amount*	10%
Real estate and securities capital gain: capital gain*	20%

*10% of tax amount calculated from the above tax rates are added as local income tax

The above withholding tax rates may be mitigated where Korea has a double tax treaty with the recipient country. The withheld tax must be remitted to the Tax Authorities by the 10th day of the month following the month in which the non-resident was paid/credited. When failing to comply with the obligation, penalties are imposed.

Taxation

Value added tax (VAT)

The VAT rate is 10%. The amount of tax payment is calculated by deducting input tax from the output tax. When input tax exceeds the output tax, the exceeding amount is refunded.

1. Object of taxation

Classification	Object of taxation
Provision of goods	Taxable only if the provider is a business owner
Provision of services	Taxable only if the provider is a business owner
Importing of goods	Taxable regardless of whether the purchaser is a business owner or not

2. Zero tax rate and exemption

Zero rates are applied for exporting goods, providing foreign services, shipbuilding, flight service for foreign destinations, or other goods providing foreign currencies.

VAT is exempted for the following goods and services provisions:

- Basic living necessities such as food and services
- National welfare services such as medical and education
- Goods and services related to culture such as books, culture, sports
- Banking, finance, and insurance services stipulated in the VAT Law
- Goods and services are provided by public organisations such as other religious societies, charities, etc.
- Land

3. Domestic service by non-resident

The importing of service is not regulated as a taxable transaction; however, when a business owner receives service from either of the following, VAT should be levied upon payment for the service, and the amount should be paid to the district tax office:

- A non-resident or a foreign corporation without a domestic business place, but its income is subject to withholding tax by a separate taxation system.
- A non-resident or a foreign corporation with the domestic business place but without relatedness of services to the establishment.

Taxation

Value added tax (VAT)

4. VAT refund to foreign business owners

A non-resident without a domestic location or a foreign business owner doing business overseas as the form of a foreign corporation is subject to a refund for VAT for the foreign business owner if it purchases or is provided with the following goods and services the country for the purpose of doing business. In this case, the refund amount for the foreign business owner's one-year calendar must exceed KRW 300,000. A refund follows reciprocity, equal treatment of granting refunds to countries permitting refunds to Korean businesses in their countries.

- Food, lodging services
- Advertising service
- Electricity, communication service
- Realty rent service
- Building, structure, and maintenance service of the building and structure for a domestic business place
- Office furniture, equipment, and rental service of the office furniture and equipment

5. VAT on electronic services provided by foreign entities

In the case where a non-resident or a foreign corporation that has no domestic business place in the country provides local recipients with electronic services (game, software, advertising, and cloud computing, etc.) which can be accessed via a mobile device, computer, etc., then the services shall be considered as being provided in Korea. The foreign provider, therefore, is required to apply for the simplified VAT registration, return, and payment through the National Tax Service website.

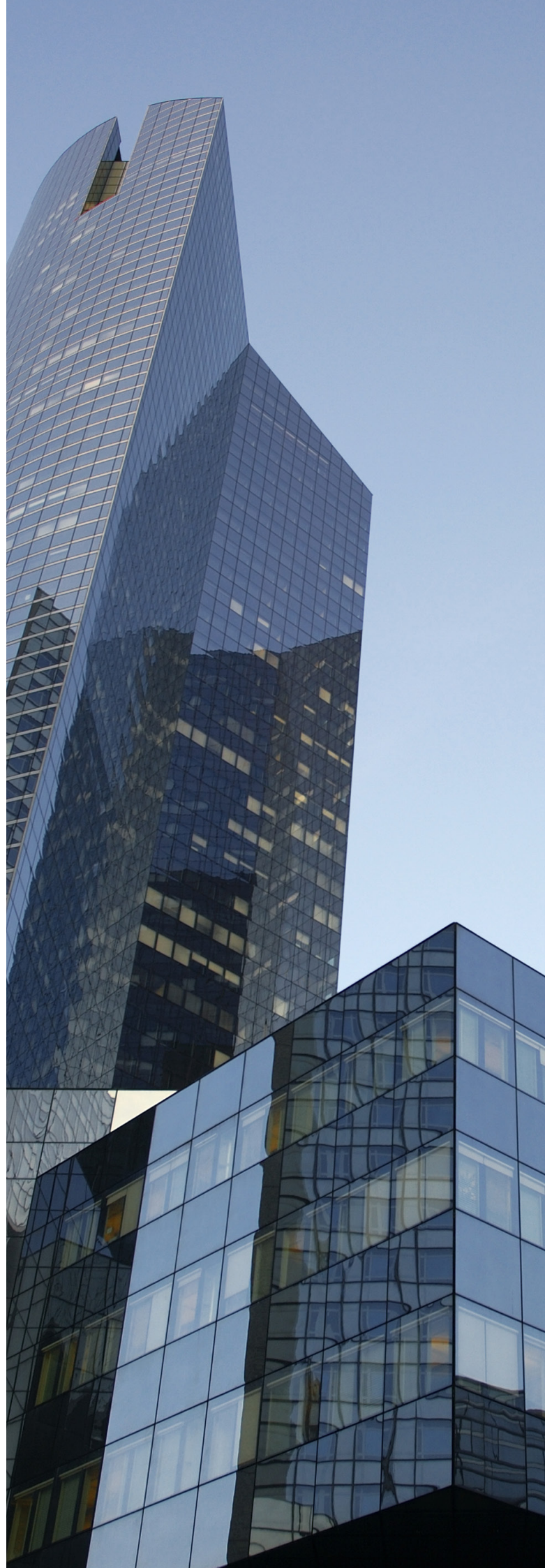


Taxation

Other taxes

The following additional taxes can be relevant for individuals and corporations:

- Inheritance, gift tax
- Tariffs
- Acquisition tax, registration tax
- Residence tax
- Comprehensive real estate holding tax
- A special tax for rural development
- Individual consumption tax
- Transportation, energy, environment tax
- Liquor tax
- Stamp tax
- Security transaction tax
- Education tax



Taxation

Transfer pricing in Korea

1. Reporting for intercompany transactions

Korean Transfer Pricing (“TP”) regulations are governed by the Law for Coordination of International Tax Affairs (“LCITA”). At the time of filing the corporate income tax return, a taxpayer is required to submit the following certain Transfer Pricing reporting forms within six months from the last day of the previous fiscal year ends:

- A detailed statement of the overseas intra-group transactions (“a”).
- Summarised income statements of the overseas related companies (“b”) This submission can be waived if the total amount of transactions for each related foreign party does not exceed KRW 1 billion for goods and KRW 200 million for services.
- The transfer pricing method selected and a description of the selection reasons (“c”). If the company does meet one of the following cases, the company does not need to submit file forms for c.
 - i. The total amount of transactions does not exceed KRW 5 billion for goods and KRW 1 billion services.
 - ii. The total amount of transactions for each related foreign party does not exceed KRW 1 billion for goods and KRW 200 million for services.

2. Master & local file, CBCR reporting

Consolidated enterprise report (master file) and individual enterprise report (local file) on cross-border transactions if the annual turnover exceeds KRW 100 billion and cross-border related party transactions of more than KRW 50 billion should be submitted within 12 months from the last day of the month in which the previous fiscal year ends. TP documentation (local file) does not have to be filed unless the above condition is met. However, whenever there are intercompany transactions reported, the tax office may request some documentation (TP policy/benchmarking analysis) to the entity to justify the pricing used.

Korean multinational companies must submit the Notification about the country by country reports (CBCR) in the following cases:

- The annual turnover does not exceed €750 million on the consolidated profit and loss statement for the previous fiscal year. The Korean entities or branches (the “Korean entities”) do not have the CBCR obligation.

- The annual turnover exceeds €750 million on the consolidated profit and loss statement for the previous fiscal year. The Korean entities that have parent companies outside Korea should submit a CBCR Notification within 12 months from the last day of the month in which the previous fiscal year ends.

If more than two Korean entities are in Korea, one can submit the Notification on behalf of the others. If the Korean entities do not submit the CBCR Notification within the period (12 months) or below conditions are met, they should submit the CBCR instead of the designated reporting entity within 12 months from the last day of the month which the previous fiscal year ends.

If a tax amount drops to some level specified in the law (i.e., 50% compared to substantial transaction assumed by tax authorities) by backdoor transactions, a taxpayer should take the burden of proof which shows no intention to avoid tax imposition purposely. Also, tax authorities can impose tax by referring to comparable companies’ data and assuming arm’s length price if the taxpayer does not submit the requested information/data (e.g., reporting for international transactions, master file and local file, etc.).

In the past, if a company that had international transactions with related companies did not submit the information or data about the transactions, the penalty could be imposed only one time for each document. Penalties can be imposed up to 300 million every 30 days until the submission of the requested document if no CBCR obligation exists in the country of the parent/surrogate parent, or there is no Automatic Exchange of CBCR Information (AEI) between the countries of the reporting entity and the local entity.

Taxation

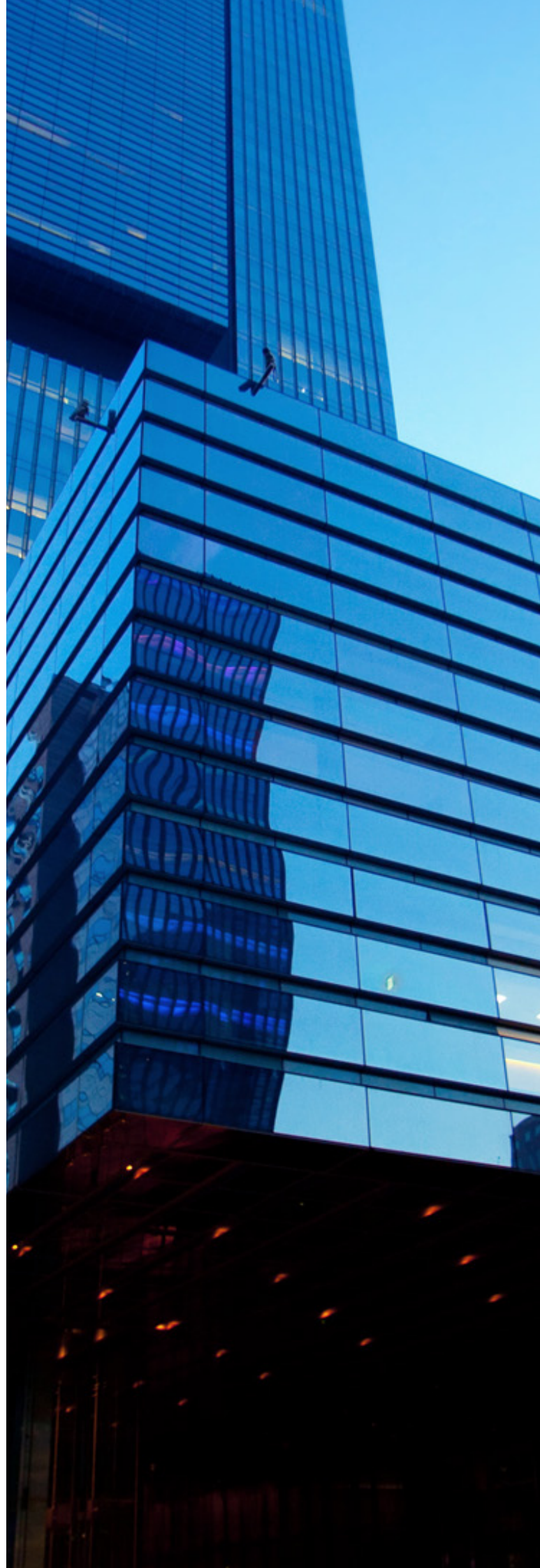
Transfer pricing in Korea

3. Others

A company submitting a master file or a local file would be exempt from submitting the international transactions schedule and reporting of transfer pricing method.

The taxpayer should maintain documents that can prove the transfer price of intangible assets being reasonable.

The arm's length price of low value-added services can be assumed to be a 5% mark-up of relevant costs. The taxpayer should maintain supporting documents that prove that their services correspond to low value-added service. However, if the low value-added service transaction exceeds a certain level, the amendment does not apply.



Social security



Social security

Four social securities are applicable for employees working in the Republic of Korea

Four social securities are the following:

- National pension.
- Health insurance.
- Unemployment insurance.
- Workers accident compensation insurance.

Social insurance rates in Korea

Social insurance	Employer portion	Employee portion
Health insurance	Monthly average wage X 3.495% X 1.1227%	Monthly average wage X 3.495% X 1.1227%
National pension	Monthly average wage X 4.5%	Monthly average wage X 4.5%
Employment insurance	Wage X (0.8% + premium by business size [0.25%~0.85%])	Wage X 0.8%
Industrial accident compensation insurance	Wage X premium by business type (0.7%~18.6%)	
Total	About 10% of wage	About 9% of wage

The premium rate introduced in this table may vary depending on the situation. Besides, the upper limit is set for some contributions.

Moreover, employees with more than 1 year of employment in the company are entitled to a severance of at least 1 month of salary per year of employment.

Audit



Audit

An external audit is required in Korea in the following cases:

1. For a stock company (chusik hoesa), meeting any of the following three criteria:

- A stock-listed company (Stock market, KOSDAQ, KONEX) or a company to be listed.
- A company with at least KRW 50 billion in total assets or sales at the end of the last business year.
- A company meeting two or more of the following four requirements at the end of the last business year:
 - i. Total assets are KRW 12 billion or above.
 - ii. Total liabilities are KRW 7 billion or above.
 - iii. Total sales are KRW 10 billion or above.
 - iv. Number of employees are 100 or above.

2. For a limited company (yuhan hoesa), meeting any of the following two criteria:

- A company with at least KRW 50 billion in total assets or sales at the end of the last business year.
- A company meeting three or more of the following five requirements at the end of the last business year:
 - i. Total assets are KRW 12 billion or above.
 - ii. Total liabilities are KRW 7 billion or above.
 - iii. Total sales are KRW 10 billion or above.
 - iv. Numbers of employees are 100 or above.
 - v. Numbers of unitholders are 50 or above.

3. Audit Contract

Companies subject to compulsory external audits during the year have to sign their audit contract by 15 February. The contract has to be submitted to the Financial Supervisory Service within 14 days after the signature of the contract. However, there is an exception for first-time audits whereby the audit contract has to be signed by 30 April.



Our range of services



Our range of services

Audit services

Mazars provides audit and assurance services in accordance with Korean GAAP, IFRS (K-IFRS), French GAAP, German GAAP, and US GAAP. Our approach is efficient and cost-effective. Mazars audit services ensure in-depth knowledge of your business and establish a long-term working relationship.

- Statutory & non-statutory audit
- Advisory services on accounting standards (IFRS, K-GAAP, US-GAAP)
- Internal control advisory service (SOX and K-SOX test)
- Attestation services

Financial advisory services

Due diligence, valuation, and corporation diagnosis to fraud and corruption investigation and risk management, Mazars financial advisory services guide your financial transaction to a successful outcome. Our advisory team will work with you through the whole process until the deal is complete.

- Financial and tax diligence for mergers and acquisitions
- Business valuation
- Fraud and corruption and investigation and risk management

Outsourcing services

We provide a tailored service from setting up a new company to daily business administration to help you react quickly to changing market conditions or seasonal variations.

- Bookkeeping and management reporting
- Preparation of financial statements
- Payroll
- Cash management
- Corporate secretarial services
- Incorporation & liquidation

Tax compliance and advisory services

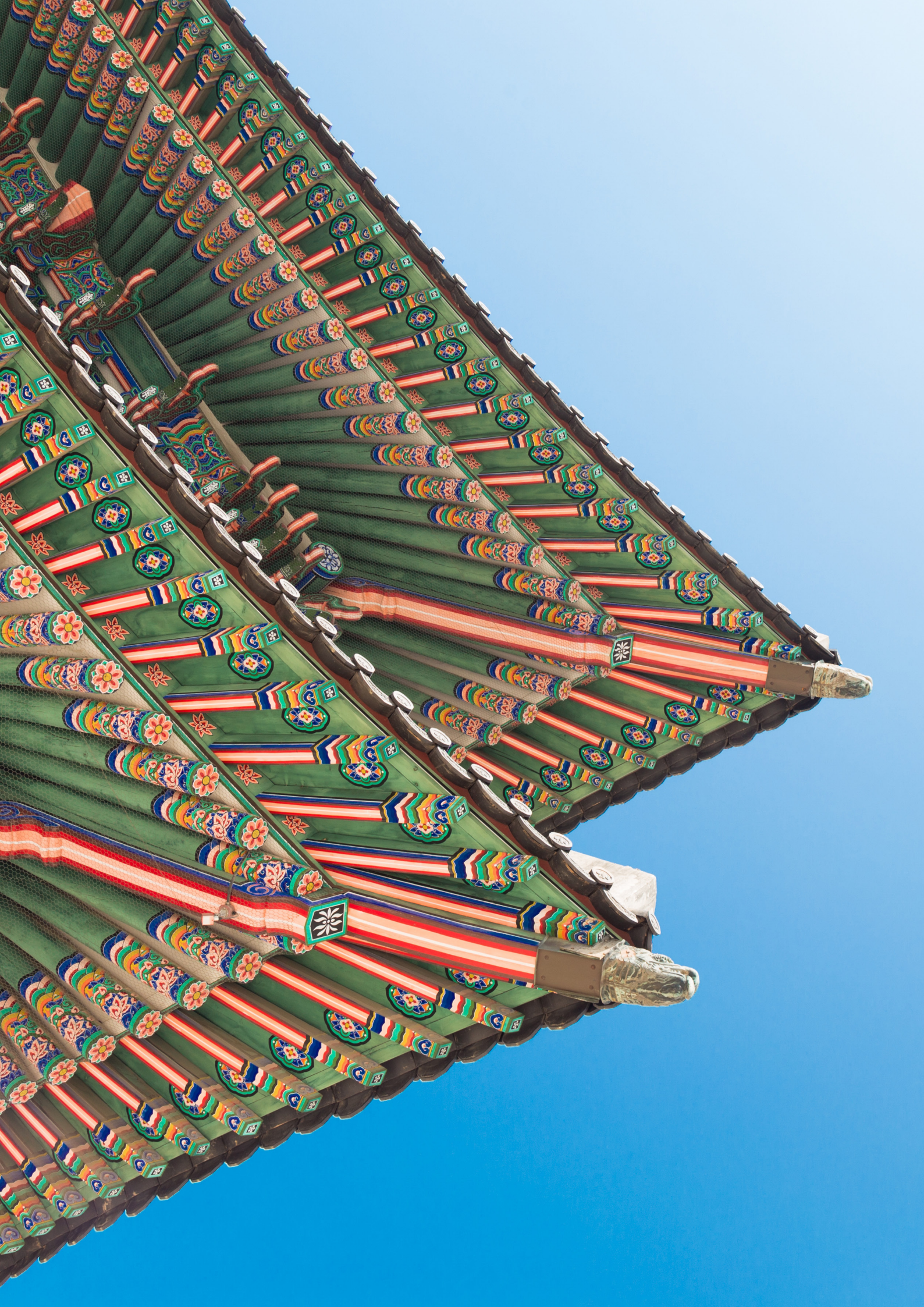
Mazars' tax advice and solutions can help you enhance tax savings and avoid risks.

- Compliance, tax advisory, and tax planning for corporations, registered bodies, partnerships, joint ventures, and individuals
- Tax field audits and investigation
- Tax incentives and business-related services
- Tax appeal services
- Stock valuation regarding inheritance and gift taxes
- Global tax consultation
- Transfer pricing advisory

Expense verification services

Governmental budgets or subsidies received from national or local public organisations should be appropriately managed and executed in accordance with relevant regulations. The expense verification team in Mazars in Korea has been collaborating with major agencies for the past decade. Thousands of cases have been practised, and through our experience, we have acquired practical know-how based on the characteristics of each department's regulations. We provide consulting on optimised use and management of business expenses and professional settlement reports.

- Guide preparation of the business plan
- Consult on operation and management business expense
- Provide interpretation of regulations for each government organisations
- Expense verification fact-finding reports



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*Where permitted under applicable country laws

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