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# DOING BUSINESS IN SOUTH KOREA





# COMPANY FORMATION IN SOUTH KOREA

## MAIN FORMS OF COMPANY/BUSINESS IN SOUTH KOREA

There are three ways by which foreigners (foreign corporations) can enter Korea for business purposes: establishing a local corporation, a local branch, or a liaison office.

### Local Corporation

The establishment of a local corporation in Korea by a foreigner (individual or corporation) is regulated by the Foreign Investment Promotion Act and the Commercial Act. For a local corporation to be recognized as a foreign-invested company under the Foreign Investment Promotion Act, a foreigner must invest not less than 100 million won in the local corporation and acquire not less than 10 percent of the company's stocks with voting rights.

A corporation established by a foreigner with an investment of not less than 100 million won is also recognized as a foreign investment under the Foreign Investment Promotion Act.

### Branch and Liaison Company

A domestic branch of a foreign company can be classified into a branch and a liaison office depending on whether the entity engages in sales activities. A branch that operates a business that generates profit in Korea is not considered foreign direct investment because it is a branch of a foreign company, not a domestic company.

A liaison office does not carry out businesses that generate profit in Korea, but instead undertakes non-sales functions such as market research and R&D. Unlike a branch, a liaison office does not need to undergo registration, and is granted an identification number equivalent to the business registration number at a jurisdictional tax office in Korea.

## SPECIFIC TAX CONCERNS RELATED TO ESTABLISHING A COMPANY

### Corporate Tax

Domestic businesses are obligated to pay corporate tax for all income generated domestically and in foreign countries, while foreign businesses are obligated to pay corporate tax for income from domestic sources.

'Corporate tax for income from the business year' is levied for the income of businesses in each business year. In the event that land, buildings, housings or adjoining land in specific areas are transferred or land for non-business purposes is transferred, 'corporate tax for land and other transfer income' is additionally levied. Where a domestic business is dissolved, 'corporate tax on liquidated income' is imposed.

### Basic Tax Rate on Corporate Income

Tax Base	Tax Rate
200 million won or less	10%
More than 200 million won but not exceeding 20 billion won	20 million won + amount in excess of 200 million won x 20%
Exceeding 20 billion won	3,980 million won + amount in excess of 20 billion won x 22%

\*Corporate local income tax equivalent to approximately 10 percent of the corporate tax is imposed





## DOING BUSINESS IN SOUTH KOREA

### **Value Added Tax**

Value added tax (VAT) is a tax levied on added value (profit) acquired in the process of the transaction of products (goods) or the provision of services. Korea imposes VAT on value generated at each step of a transaction, and applies a VAT rate of 10 percent. The VAT imposed on businesses is calculated by subtracting the purchase tax from the sales tax.

### **Withholding Tax (Payroll)**

When wage (including bonus) is paid every month, tax is withheld based on the table for simplified tax amounts. In February of the following year, employees submit documentary evidence for income deduction for year-end tax settlement.

## **LEGAL ISSUES RELATED TO ESTABLISHING A COMPANY**

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Out of a total of 1,145 categories of business listed under the Korean Standard Industrial Classification (KSIC), foreign investment is not permitted in 60 categories including public administration, diplomacy, and national defense (unpermitted categories of business), while foreign investment is permitted in 29 categories (restricted categories of business) by Foreign Investment Promotion Act.

Foreign investment is also prohibited in restricted categories of business in principle. However, when there are standards for permission, foreign investment is partially permitted.



# PERMANENT ESTABLISHMENT IN SOUTH KOREA: BRANCH OR SUBSIDIARY?

## DEFINITION OF A PERMANENT ESTABLISHMENT

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The conditions for Korean permanent establishments (PEs) include:

An ordinary PE exists when a foreign corporation has a fixed place through which it conducts all or part of its domestic business.

A deemed PE exists when a foreign corporation – without any fixed place through which it conducts domestic business – operates its business in Korea through a person authorized to repeatedly enter into contracts on behalf of the foreign corporation or a similar person.

## DEFINITION AND MAIN DIFFERENCES BETWEEN A BRANCH AND A SUBSIDIARY

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Established as a local company by foreigners (foreign corporations), a subsidiary company has a closer relationship with the local business community and the opportunity for incentives depending on the type of business based on the Special Tax Treatment Law.

A branch office is treated as a separate taxable entity and able to operate as a revenue generating entity. Sales and manufacturing activities are allowed. There is no minimum capital requirement at establishment. Tax incentives are not available to branch office.

## TAX AND ACCOUNTING OBLIGATIONS

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A branch is obligated to pay corporate tax for income from domestic sources only.

A subsidiary company is generally required to lodge externally audited financial statements and the statutory accounts should be reported to the Korean tax authority annually together with the corporate income tax returns.

A stock company with total assets equal to or greater than KRW 12 billion as of the end of the preceding fiscal year is required to have externally audited financial statements.

A branch office is not required to lodge externally audited financial statements, but they have to submit the financial annually together with the corporate income tax returns.

## REGISTRATION FORMALITIES

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The procedure for establishment of a local corporation can be classified into five steps:

### 1. Foreign Investment Notification

Persons required filing the notification at designated head offices or branches of domestic banks (foreign exchange bank) and domestic branches of foreign banks.



## DOING BUSINESS IN SOUTH KOREA

### **2. Investment Capital Remittance**

Investment capital may be remitted to domestic banks from overseas, at this time, domestic capital doesn't approval.

### **3. Incorporation/Business Registration**

Place for registration – A competent court and jurisdictional tax office.

### **4. Transfer of Paid-In Capital to Corporate Account**

Upon completion of the incorporation registration and business registration, companies are incorporated and the paid-in capital deposited in a temporary account can be transferred to a corporate account.

### **5. Foreign Investment Company Registration**

## **STANDARD LEGAL OBLIGATIONS AND FORMALITIES FOR A BRANCH**

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### **1. Notification of Branch Establishment**

In principal, a foreign company should report the establishment of a domestic branch to the head of a designated foreign exchange bank.

### **2. Registration of Branch Establishment**

Under the Commercial Act, 'branched' are collectively referred to as 'business office'. The Act stipulates that a business office should be registered where a foreign company carries out sales activities in Korea.



# HOW TO HIRE MY FIRST EMPLOYEE IN SOUTH KOREA

## MAIN LEGAL STEPS TO FOLLOW TO HIRE A FIRST EMPLOYEE

When employing workers in Korea, the laws regarding recruitment, salary, and dismissal should be observed. Korea's labor laws are largely divided into four categories: individual employment-related laws, collective labor relations laws, cooperative labor relations laws and employment-related laws. Labor laws set the standards for labor contracts and labor relations, enable the voluntary resolution of disputes between labor and management by guaranteeing workers' right to organize a union, and ensure mutual benefits to labor and management by promoting the participation and cooperation of employers and workers.

### Wages

Wages refer to money or other valuables paid to employees in exchange for their services, regardless of how they are called (wage, salary, bonus, etc.). Wages shall be paid at or above the minimum wage set by the Minister of Employment and Labor every year. The minimum wage for 2016 is set at 6,030 won per hour, and 48,240 won per day (8 hour workday).

The Labor Standards Act classifies wages into ordinary wage and average wage, and retirement payment and other allowances set by law are to be calculated based on one of these two wage categories. 'Average wage' refers to the total amount of wages paid to a worker during the three months prior to the event (e.g. retirement) necessitating the calculation of the average wage, divided by the total number of days during the same period. Average wage is used to calculate retirement payments, business suspension allowances, and industrial accident compensation. 'Ordinary wage' refers to wages by hour, day, week, or as otherwise outlined in an employment contract for certain work performed, or for the total number of working hours. Allowances for extended work, nighttime work, holiday work, annual paid leave, and advance notice of dismissal all fall into this category.

### Working Hours

The standard working hours set by the Labor Standards Act are eight hours per day and 40 hours per week. The working hours prescribed by the Act should not be exceeded. If carried out by the order of the employer, work preparation hours, waiting hours, training hours and organizing hours outside the standard working hours shall all be counted as working hours.

Work beyond the standard working hours should be agreed upon by the employer and employee. However, even when agreed upon by both parties, at least 50 percent of the ordinary wage should be paid in addition to the standard wages for extended work, nighttime work (22:00-06:00), or holiday work.

### Holidays and Leaves

Generally, there are two types of holidays and leaves: "Legal" holidays and leaves, for which the details, conditions, and effects are decided by law, and "agreed" holidays and leaves, for which such matters are decided autonomously by management and labor. Legal holidays and leaves include weekly holidays, Labor Day, monthly leave, annual leave, menstruation leave, and maternity leave. Agreed holidays and leaves may include public holidays, company foundation anniversaries, summer leave, and congratulatory & condolence leave.

### Dismissal

An employer cannot dismiss, lay off, suspend or transfer a worker, reduce a worker's wages, or take punitive measures against a worker without justifiable cause. Such punitive measures shall be taken on reasonable grounds that are generally accepted by society at large. In general, the reasons for punitive measures such as dismissal are stipulated in the employment regulations or the collective agreement, and the procedures



## DOING BUSINESS IN SOUTH KOREA

set forth in the concerned employment regulations or collective agreement shall be followed. When dismissing a worker, the worker shall receive notice of the dismissal at least 30 days prior to actual dismissal. If not, the employer shall be obligated to pay at least 30 days' worth of advance notice of dismissal pay. Dismissal of an employee is effective only when a written notice stating the cause and date of dismissal is sent to the employee concerned.

### **Retirement Allowance System**

The employer should pay the average wage for 30 days or more per year of continuous service period s retirement allowance when an employee dies or retires. The employer may pay retirement allowance prior to an employee's retirement for the continuous service period by computing the retirement allowance for the served period when the employer requests such early payment of retirement allowance for a cause provided under the Act on the Guarantee of Employee Retirement Payments, including the purchase of a home, recuperation of six or more months from a disease or injury of the employee or his/her dependents, declaration of bankruptcy, and a pay decrease under the peak wage system.

### **CAN SOMEBODY DO BUSINESS FOR ME AND NOT BE AN EMPLOYEE?**

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In South Korea, an employer does not hire a "dispatched worker" but uses him/her based on a leasing contract between the employer and a temporary work agency that directly hired the worker. But dispatched workers may be used in the restricted cases.



# HOW TO READ FINANCIAL STATEMENTS IN SOUTH KOREA

## Statement of Financial Position

FY 2015 12/31/2015 Current

FY 2014 12/31/2014 Current

Company XXX

		FY 2015	FY 2014
<b>자 산</b>	<b>ASSETS</b>		
I. 유 동 자 산	I. Current Assets		
(1) 당 좌 자 산	(1) Quick Assets		
보 통 예 금	Bank deposits		
외 상 매 출 금	Trade receivables		
대 손 총 당 금	Allowance for doubtful accounts		
미 수 금	Non-trade receivables		
선 급 금	Advance payments		
선 급 비 용	Prepaid expenses		
선 납 세 금	Prepaid income taxes		
(2) 재 고 자 산	(2) Inventories		
제 품	Finished goods		
원 재 료	Raw materials		
II. 비 유 동 자 산	II. Non-current Assets		
(1) 투 자 자 산	(1) Investment Assets		
(2) 유 형 자 산	(2) Tangible Assets		
토 지	Land		
건 물	Buildings		
감 가 상 각 누 계 액	Accumulated depreciation		
기 계 장 치	Machinery		
감 가 상 각 누 계 액	Accumulated depreciation		
차 량 운 반 구	Vehicles		
감 가 상 각 누 계 액	Accumulated depreciation		
비 품	Office equipment		
감 가 상 각 누 계 액	Accumulated depreciation		
금 형	User setup accounts		
감 가 상 각 누 계 액	Accumulated depreciation		
(3) 무 형 자 산	(3) Intangible Assets		
개 발 비	Development costs		
(4) 기 타 비 유 동 자 산	(4) Other Non-current Assets		
임 차 보 증 금	Leasehold deposits		
기 타 보 증 금	Other guarantee deposits		
<b>자산 총계</b>	<b>TOTAL ASSETS</b>		





# DOING BUSINESS IN SOUTH KOREA

<p><b>부 채</b></p> <p>I. 유 동 부 채</p> <p>    외 상 매 입 금</p> <p>    미 지 급 금</p> <p>    예 수 금</p> <p>    선 수 금</p> <p>    단 기 차 입 금</p> <p>    미 지 급 비 용</p> <p>II. 비 유 동 부 채</p> <p>    장 기 차 입 금</p> <p><b>부채 총계</b></p>	<p><b>LIABILITIES</b></p> <p>I. Current Liabilities</p> <p>    Trade payables</p> <p>    Non-trade payables</p> <p>    Withholdings</p> <p>    Advances from customers</p> <p>    Short-term borrowings</p> <p>    Accrued expenses</p> <p>II. Non-current Liabilities</p> <p>    Long-term borrowings</p> <p><b>TOTAL LIABILITIES</b></p>	
<p><b>자 본</b></p> <p>I. 자 본 금</p> <p>    자 본 금</p> <p>II. 자 본 잉 여 금</p> <p>    주 식 발 행 초 과 금</p> <p>III. 자 본 조 정</p> <p>IV. 기 타 포 괄 손 익누계액</p> <p>V. 이 익 잉 여 금</p> <p>    미 처 분 이 익 잉 여 금</p> <p>    ( 당 기 순 이 익 )</p> <p>    당기 :</p> <p>    전기 :</p> <p><b>자본 총계</b></p>	<p><b>STOCKHOLDERS' EQUITY</b></p> <p>I. Capital Stock</p> <p>    Capital Stock</p> <p>II. Capital Surplus</p> <p>    Additional paid-in capital</p> <p>III. Capital Adjustments</p> <p>IV. Accumulated Other Comprehensive Income</p> <p>V. Retained Earnings Or Accumulated Deficit</p> <p>    Unappropriated retained earnings</p> <p><b>NET INCOME</b></p> <p>    CURRENT PERIOD :</p> <p>    PREVIOUS PERIOD :</p> <p><b>TOTAL STOCKHOLDERS EQUITY</b></p>	
<p><b>부채 및 자본 총계</b></p>	<p><b>TOTAL LIABILITIES AND STOCKHOLDERS EQUITY</b></p>	



## Income Statement

FY 2015 From 01/01/2015 To 12/31/2015

FY 2014 From 01/01/2014 To 12/31/2014

Company XXX

		FY 2015	FY 2014
<b>I. 매출액</b>	<b>I. Sales revenue</b>		
상품 매출	Sales-merchandise		
제품 매출	Sales-finished goods		
<b>II. 매출원가</b>	<b>II. Cost of good solds</b>		
상품 매출원가	Cost of merchandise sold		
기초 상품재고액	Beginning inventory of Merchandises		
당기 상품매입액	Cost of Merchandises purchased		
기말 상품재고액	Ending inventory of Merchandises		
제품 매출원가	Cost of finished goods sold		
기초 제품재고액	Beginning inventory of Finished goods		
당기 제품제조원가	Cost of finished goods		
기말 제품재고액	Ending inventory of Finished goods		
<b>III. 매출총이익</b>	<b>III. Gross profit</b>		
<b>IV. 판매비와관리비</b>	<b>IV. Selling and Administrative Expenses</b>		
임원급여	Executive compensations		
직원급여	Employee wages and salaries		
퇴직급여	Retirement benefits		
복리후생비	Employee benefits		
여비교통비	Travel expenses		
접대비	Entertainment expenses		
통신비	Communication expenses		
수도광열비	Utility expenses		
세금과과금	Taxes and dues		
감가상각비	Depreciation expenses		
수선비	Repairs expenses		
보험료	Insurance premium		
차량유지비	Vehicles maintenance expenses		
경상연구개발비	Research & development expenses		
운반비	Freight expenses		
교육훈련비	Training expenses		
사무용품비	Office expenses		



# DOING BUSINESS IN SOUTH KOREA

소 모 품 비	Supplies expenses		
지 급 수 수 료	Service fees		
광 고 선 전 비	Advertising expenses		
대 손 상 각 비	Bad debt expenses		
수 출 제 비 용	Export expenses		
무 형 고 정 자 산 상 각	Amortization of intangible fixed assets		
<b>V. 영 업 이 익</b>	<b>V. Operating profit</b>		
<b>VI. 영 업 외 수 익</b>	<b>VI. Non-operating income</b>		
이 자 수 익	Interest revenues		
외 환 차 익	Gains on foreign currency transaction		
외 화 환 산 이 익	Gains on foreign currency translation		
잡 이 익	Miscellaneous revenues		
<b>VII. 영 업 외 비 용</b>	<b>VII. Non-operating expenses</b>		
이 자 비 용	Interest expenses		
외 환 차 손	Loss on foreign currency transaction		
외 화 환 산 손 실	Loss on foreign currency translation		
잡 손 실	Miscellaneous loss		
<b>VIII. 법 인 세 차 감 전 이 익</b>	<b>VIII. Net income before corporate tax</b>		
<b>IX. 법 인 세 등</b>	<b>IX. Corporate tax etc</b>		
법 인 세 등	Corporate tax etc		
<b>X. 당 기 순 이 익</b>	<b>X. Net income</b>		