

Chandrawat  
& Partners

DOING  
BUSINESS  
IN  
**SOUTH  
KOREA**



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# OVERVIEW

Geographically, South Korea is favoured because it is sandwiched between China and Japan, two superpowers. Its location as a gateway to these markets and their 1.7 million customers is ideal.

South Korea is a major exporter, now ranked seventh among the main exporting nations. It is a world leader in the production of electronics, including semiconductor chips, computers, mobile phones, and batteries. In fact, demand for goods increased significantly in 2020 (+57%), which has been a major contributor to the recovery of the nation. 84% of the world's GDP is currently covered in South Korea.

South Korea provides a great range of market opportunities for its businesses, especially in sectors like electronics, telecommunications, vehicle manufacturing, steel, shipbuilding, and chemicals. Additionally, it puts emphasis on innovation, education and research and development and provides access to a highly-skilled workforce.





# FOREIGN DIRECT INVESTMENT POLICY

Foreign direct investment ("FDI") is the process whereby residents of one country (the source country) acquire ownership of assets in another country (the host country) for the purpose of controlling the production, distribution and other activities of a firm in that country.

Global foreign direct investment ("FDI") flows in 2021 were USD 1.58 trillion, up 64 per cent from the exceptionally low level in 2020. The recovery showed significant rebound momentum, with booming merger and acquisition (M&A) markets and rapid growth in international project finance because of loose financing conditions and major infrastructure stimulus packages.

The country is ranked 16th on the AT Kearney Foreign Direct Investment Confidence Index 2022 on the most attractive economy for foreign investment. South Korea's appeal in terms of foreign direct investment is the result of the country's rapid economic development and the country's specialization in new information and communication technologies. However, the lack of general transparency in regulations remains a major concern for foreign investors. The World Bank esteems that the Republic of Korea is a country with a highly developed business environment.



The regulations on operation of security review procedures for foreign investment were also passed and put into effect by Ministry of Trade, Industry and Energy ("MOTIE"), and they stipulate that when a foreign investor files a report for a foreign investment or an application for approval, the investor must state whether it is acquiring de facto control of the company and whether the transaction results in one of the cases listed below-

- There are concerns that production of defence materials may be hindered.
- It is highly likely that goods will be subject to export approvals or licenses, or technologies will be diverted for military purposes.
- There are concerns regarding public disclosure of state secrets.
- There are concerns that international efforts by the United Nations or other organizations to maintain international peace and security may be severely and substantially hindered or
- It is highly likely that National Core Technology will be divulged.



### Defence Industry Equipment

South Korea is the world's 10th largest exporter of defence goods and has the 10th largest defence expenditure as of 2022. Over the past few decades, South Korea, which has historically relied significantly on the United States for the supply of defence equipment to maintain its armed forces, has emerged as a significant defence manufacturer. South Korea has further developed into a major exporter of defence goods because of its ability to expand and develop its domestic defence sector.

### Energy-Carbon Neutrality Initiatives

South Korea is the 14th nation to pass legislation requiring carbon neutrality by 2050. Due to a lack of adequate domestic energy resources, South Korea continues to highly employ energy-intensive industries and imports more than 90% of its energy needs. South Korea generated 576,316 gigawatt hours of electricity in 2021, with increases in the production of renewable energy (43,085 GWh) and gas (168,262 GWh) of 18 and 15.3 percent, respectively. Even though the amount of coal used to generate electricity has significantly decreased, coal still accounts for about 34% of all electricity produced.

# KEY SECTORS FOR INVESTMENT





### **Aerospace Industry**

South Korea is the 18th largest market for American exports of aircraft. The United States exported \$1.285 billion worth of aerospace to South Korea in 2021. Even though approximately 70% of the \$870 million worth of exports were made up of civilian aircraft, engines, and parts, air combat simulators and their associated parts made up around 25% of all American exports to South Korea. Nearly 95% of South Korea's entire of aerospace imports from the rest of the world in 2021 consisted of aircraft, along with their parts and components, with more than 80% of those imports coming from the US.



### **Cybersecurity**

Cyberattacks have advanced in sophistication as the world gets more linked. Cyberattacks are more well-planned, persistent, and carried out on a bigger scale because of the emphasis of international hacker groups and cyber terrorists. That focus expanded to cover both private sector assets and vital infrastructure. The internet's global reach contributes to some devices' and data storage's vulnerabilities.

# ADVANTAGES OF DOING BUSINESS

## **Spectacular infrastructure**

South Korea's infrastructure is up to date and well-kept, which makes logistics simple. It also boost some of the world's fastest internet speeds. It won't be difficult for you to communicate or move objects.

## **Smart and knowledgeable consumers**

South Korea have the highest rates of secondary education and literacy worldwide, South Korea continues to be one of the most connected nations. Communicating with clients is not a concern in South Korea.

## **Reduced product duty rates**

South Korea have generous free trade agreements with United States, United Kingdom and European Union. Additionally, all of them make it simpler to sell various goods in thses nations.

## **Diversified market**

A major shipbuilding industry and cutting-edge solar energy technology are also found in the South Korea. Practically every form of business can find a place in South Korea.

## **Intellectual property rights protection**

South Korea often keeps up with new international patents and trademarks. It complies with World Trade Orangization regulations and even upgrades Intellectual property rights rules to cover new areas like trade secrets and electronic commerce.





# TYPES OF BUSINESS ENTITIES



## Joint Stock Company (JSC)

A JSC is a limited liability company in which the shareholders are limited to holding capital stock and liabilities up to the acquisition price of the stocks. Under South Korean legal principles, the JSC is referred to as a "real company", roughly comparable to the German Realgesellschaft. This means that the company has legal personality and is separate from the owners.



## Limited Company ("LC")

An LC is a limited liability company based on the capital made up of members' contributions in equal units. Members of the LC are responsible for their capital contribution and are liable to the extent of their respective contributions. An LC is similar to a JSC, but is more suitable for small and closely-held companies.



## Private Limited Company ("PLC")

The members of a PLC have limited liability only to the extent of their contribution in the company.



## General Partnership Company ("GP Company")

Under South Korean legal principles, a GP company is a representative form of a "personal company", where the owners of the company tend to manage and operate the company. It is established when two or more members with unlimited liability prepare the articles of incorporation (articles) and register for incorporation. Members of the company are liable for the company's liability beyond the contribution they made to the company.

**The investor can conduct business in Korea in one of four ways:** by forming a local corporation, starting a private company, creating a branch, or opening a liaison office. The Foreign Investment Promotion Act primarily regulates the first two classes, while the Foreign Exchange Transactions Act governs the last two. A liaison office is one of the four categories of commercial entities that is not allowed to conduct profitable operations in Korea.

Incorporation registration (private business registration), business registration, foreign invested firm registration, and notice of foreign investment are the four steps in the process of establishing a local corporation.

Except for the pre-report of foreign investment and the registration of a foreign invested firm, the procedure is essentially the same as the corporation establishment procedure used for Korean citizens.

**Foreign Invested Company Registration**  
(1) Place for registration: Institution where the foreign investment notification was filed

(2) Registration period: Within 30 days after the day the investment object is fully paid. Place for registration: Institution where the foreign investment notification was filed.

# MINIMUM ELIGIBILITY CRITERIA FOR COMPANY REGISTRATION





A foreign investment company registration certificate will be granted after an application is submitted and the supporting documents are included. The certificate is necessary in the following situations:

The sending of investment profits or returns abroad- The process for sending money abroad has been substantially streamlined.

When making a D-8 (business investment) visa application: requesting a D-8 visa- Application locations include Invest KOREA, local immigration offices, and Korean consulate generals abroad (apart from Chinese nationals).

Immigration offices: Issuing certificates for confirmation of visa issuance and changes to visa status %Invest KOREA and Changing visa status to D-8 Required documents include a passport, a visa application form, a dispatch order (or certificate of employment), a copy of the certificate of completion of the foreign investment notification, a certificate of foreign invested company registration, and a certified copy of corporate registration (or copy of certificate of business registration).

# HOW TO SET UP A BUSINESS

In South Korea establishing a local corporation or sole proprietorship, for which the Foreign Investment Promotion Act ("FIPA") is applicable or opening a branch or liaison office in accordance with the steps outlined in the Foreign Exchange Transactions Act ("FETA"), are two ways to accomplish business. However, it is not possible for a foreign corporation to be registered as a domestic sole proprietorship.

## Local Corporation

When a foreigner or a foreign firm establishes a local corporation, the laws of the FIPA and the Commercial Law are applied. The same rules apply to domestic corporations and local corporations. A foreigner must invest KRW 100 million or more to establish a local corporation; however, this minimum capital requirement does not apply to branches or liaison offices.

## Sole proprietorship

If the investment is made as a sole proprietorship and is worth KRW 50 million or more, it is considered a direct foreign investment. The owner of a sole proprietorship is personally liable for all claims made against the company because there is no other legal entity apart from the individual.

The business owner is liable for taxes. Small businesses and operations frequently employ this type of organizational structure.



# TAXATION

An income tax levied on firms is referred to as a corporate tax. Including profit and non-profit businesses, incorporated groups and foundations are subject to general corporation taxes.

Accountant and Taxable Income- Corporate tax must be paid by both domestic corporations and foreign corporations with domestic revenue. Income from each business year, liquidation income, capital gains from the sale of land, etc. are all examples of taxable income.

The net profit of a corporation is added to or subtracted from in accordance with the Corporate Tax Act to determine the income for each business year.

## Years in Business

According to a decree or the articles of organization, a business year is one accounting period. The duration cannot be more than a year.

## Submission Deadlines

Within three months of the last day of the month in which the business year ends, the tax base and the amount of income tax due must be submitted to the head of the relevant tax office with jurisdiction.





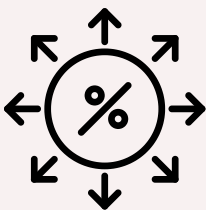
## NON-RESIDENT

Any individual other than a resident is a non-resident, who is liable to income tax only on the income derived from sources within Korea.



## TAXABLE INCOME

As stated above, resident individuals are taxed on their worldwide income. Non-resident individuals are taxed only on Korean-sourced income.



## GLOBAL INCOME

Taxable global income comprises the entire annual income from the following sources:

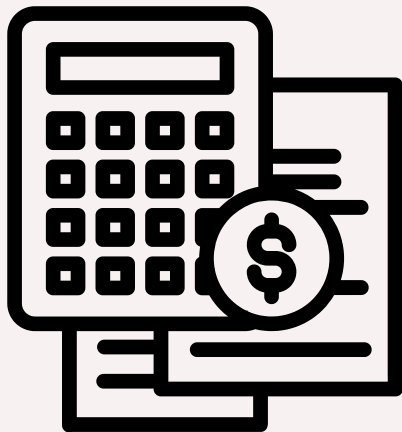
- Interest, dividends (including deemed dividends), real estate rental income
- Business income, wages, and salary income
- Pension income



## NON-GLOBAL INCOME (CLASSIFIED INCOME)

Non-global income denotes the income which is separately taxed from the global income at varying rates. It includes retirement income and transfer income tax.

# ACCOUNTING STANDARDS



The Korean Accounting Standards Board (KASB) has adopted IFRSs as Korean IFRSs ("K-IFRSs"). K-IFRS are completely identical to IASB IFRSs except for timing differences for newly published IFRS and some additional disclosure requirements. K-IFRSs are kept up to date as IFRSs change.

Listed companies and unlisted financial institutions are required to adopt K-IFRS (Korea- International Financial Reporting Standards). However, unlisted companies may choose either K-IFRS or Korean Generally Accepted Accounting Standards (K-GAAP) for financial accounting. Certain provisions of the tax laws (e.g., depreciation, foreign currency translations) have been amended to reflect the adoption of K-IFRS.



# LABOUR LAWS AND EMPLOYMENT LAWS



The main law governing employment relationships in South Korea is the Labour Standards Act (LSA). Other laws that govern employment relationships are the:

- Minimum Wage Act.
- Equal Employment Opportunity and Work-Family Balance Act.
- Act on the Promotion of Employees' Participation and Co-operation.
- Trade Union and Labour Relations Adjustment Act.
- Wage Claim Guarantee Act.
- Act on the Guarantee of Employees' Retirement Benefits.

The labour laws in South Korea apply to all persons working within South Korea. A foreign person working in South Korea is also therefore in principle subject to the South Korean labour laws. In addition to the general labour laws, foreign workers are also subject to Act on employment of foreign workers.

The Labour Standards Act, Act Concerning Protection, etc. of Fixed-term and Part-Time Workers, Act Concerning Protection, etc. of Dispatched Workers, Act Relating to Protection, etc. of Dispatched Workers, the Minimum Wage Act, the Industrial Accident Compensation Insurance Act, the Equal Employment Act, and the Employee Retirement Pay Guarantee Act are all included in this category of labour law.



# HOW CAN WE HELP?

Our team will provide the assistance in incorporation of foreign Entity in South Korea. The assistance will include-

- Incorporation of Foreign Entity
- Foreign Country Compliance Rules
- Litigation process in South Korea
- Legal Advice



**Contract drafting and negotiation:** We can assist with drafting and negotiating contracts with suppliers, customers, and partners. This can help ensure that contracts are legally sound and protect the interests of the business.

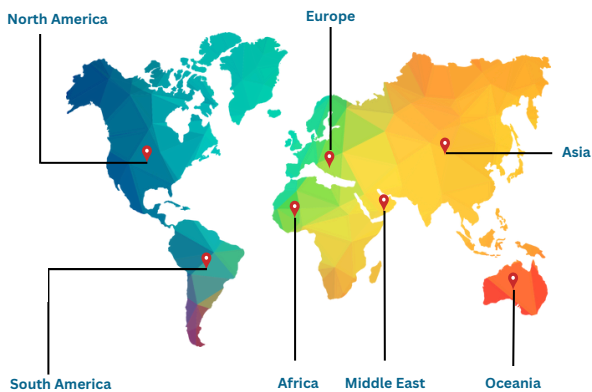
**Dispute resolution:** Our team can help businesses resolve disputes with customers, suppliers, or partners through negotiation, mediation, or litigation. This can help protect the business's reputation and commercial interests.

**Due diligence:** Our team can conduct due diligence on potential partners or suppliers to ensure they are legally compliant and financially stable.

**Compliance monitoring:** Our team can assist businesses in ensuring compliance with local laws and regulations, including tax laws, labor laws, and environmental regulations.



## SERVING CLIENTS WORLDWIDE



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