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Doing Business in South Korea

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MSI's guide on Doing Business in South Korea provides current information about the financial, regulatory and legal considerations that could affect business dealings within South Korea. For further assistance please contact our MSI member firm in South Korea.

Country overview

Population

The Republic of Korea has a population of approximately 51.7 million. It currently has the lowest birth rate in the OECD. Its population is therefore declining and this is causing a number of structural issues e.g. silver care and low enrolment in education systems, and consequently a smaller taxation base.

South Korea has a presidential system with a unicameral congress. It does have a prime minister with somewhat nominal authority.

The current president, Yoon Sok Yeol is deeply unpopular. This seems to have been a feature of recent presidents, including Roh Moo Hyun (suicide), Lee Myung Bak (prison for corruption), Park Geun Hye (prison for corruption). Moon Jae In is a recent exception! There seem to be no such issues with the incumbent; rather unpopularity!

Languages

The national language is Korean. Koreans read and listen to English well but the education system is based around test taking. Koreans therefore often do not have the ability or confidence to speak English well.

Currency

The national currency is the Korean Won.

Economic summary

GDP: US\$1.71 trillion; 13th in the global GDP rankings
Income per capita: US\$36,194
Inflation: approximately 3.6%

Main sectors of the economy

South Korea is considered a major hub in East Asia - situated between China and Japan.

It plays an important geo-strategic role. It hosts the largest US military presence outside the USA, mainly based in Camp Humphreys approximately 60 km south of Seoul and 100km south of the DMZ.

Koreans generally give little more than a passing thought to the dictator in the north.

South Korea was hard hit, like many other countries, from COVID. The travel industry effectively closed down for some 2 years.

Inflation rose quite significantly but this is being brought down by fiscal policy. The target rate is around 2%.

South Korea is primarily an export economy. It is dominated by chaebol "large conglomerates" e.g. Samsung, LG, Hyundai which have a significant level of horizontal and vertical integration.

It specialises in heavy industries, shipbuilding, construction, telephones and electronics, high technology industries, fintech and biotech to name a few.

ASEAN AND FTAs

Korea is not a member of ASEAN; however it does have a number of FTAs with significant countries and trading blocs including the USA, ASEAN, the EU, India, China, Australia, Singapore and many others.

Setting up a business

Korea has foreign exchange control laws, in particular the Foreign Exchange Transactions Act. The Bank of Korea regulates all money coming into and going out of the country. In practice, this responsibility is mostly delegated to the foreign exchange banks.

The Foreign Investment Promotion Law was designed to induce inward foreign investment. The minimum qualifying amount is KRW100 million (approx. US\$75,000).

The Korean government will guarantee remittances to the home country and there is an easier path to a D-8 visa (for the company representative).

There are no restrictions on the number of shares a foreigner can buy; however there are restrictions in certain industries. For example, foreigners cannot own agricultural land. There are also restrictions in certain sensitive industries.

A foreign company can establish branch office. This is able to generate revenue. We do not recommend it because there may be disputes with the National Tax Services regarding the source of income.

Also it makes sense to have two discrete legal entities for good corporate governance purposes.

There is also a Liaison Office. This is a sub species of a branch office. It is not permitted to generate income.

The main forms of corporate entity are the joint stock company (jusik hoesa) which is probably the most popular.

There is a short form company – limited company (yuhan hoesa).

It is notable that the initial capital amount must be paid in as a pre-requisite of incorporation c.f. the UK.

Process of how to set up a business

A lawyer would generally assist in incorporating a company. We would require PoAs from the initial shareholder and Representative Director, together with documentation attesting the veracity of the parent.

The initial capital is remitted to the Foreign Exchange bank and held in a virtual account. The bank issues a Certificate of Deposit which is taken, together with the other documents to the Company Court. It would generally take about a week to incorporate.

Once the company is registered, a Tax Licence can be applied for. You need a formal lease for this.

Once the Tax Licence has been obtained you can apply for a bank account. This generally needs to be done by the Representative Director in the country. We do have recent experience of a bank opening and account using a Power of Attorney granted to us. The Representative Director does need to be in the country to set up online banking etc.

Financial year of taxes and financial accounts

The financial year is equal to the calendar year. The subsidiary (and any branch) is subject corporation tax.

Accounting and auditing

A joint stock company becomes subject to a statutory audit if its assets or sales exceed KRW 50 billion in the previous year. Even if it does not meet this threshold, it is still subject to a statutory audit if it meets at least two of the following four criteria:

1. Assets of over KRW 12 billion;
2. Liabilities of over KRW 7 billion;
3. Sales of over KRW10 billion; or

4. More than 100 employees. (Note that the criteria differ for limited liability companies.)

Incentives foreign investors/ local investors

There are numerous incentives provided by the national and provincial governments. These depend on the types of business.

They may include Free Economic Zones, Free Economic Areas, grants and incentives such as subsidies for hiring a certain number of employees or female employees.

Taxation

VAT

The general VAT rate is 10% though some goods and services are zero rated / have reduced rates.

Also, if you are registered as a simplified tax payer and depending on the type of business and the amount of revenue generated, a lower VAT rate of 1.5% to 4% may apply.

Income tax

Korea has a system of taxation analogous to other jurisdictions. It has income tax and capital gains tax, inheritance tax property taxes.

The income tax system is progressive. However, foreigners can apply to be subject to a flat rate of 19% which is considered to be very propitious.

Corporate income tax

10% 0 – 200 million (KRW)

20% 200 million – 20 billion (KRW)

Note – there is a resident tax surcharge of 10% on the Corporation Tax liability in each year.

Corporation Tax payers are liable for the minimum tax which is the greater of 10% (to the tax base up to KRW10 billion, 11% on the excess up to KRW100 billion, 14% on the excess above KRW100 billion) of the taxable income before various deductions and exemptions pursuant to

the Special Tax Treatment Control Law). The minimum rate of taxation for SMEs is the greater of 7% of adjusted taxable income or actual tax liability.

Local Income Tax

Local income tax is a separate income tax that has its own tax base, tax exemption and credits, and tax rates. The local income tax rates for corporations are 1% on the first KRW 200 million, 2% for the tax base between KRW 200 million and KRW 20 billion, and 2.2% for the excess.

Registration procedures

Private persons and companies are registered with the tax authorities and are given a fiscal registration numbers. Communication with the tax authorities by way of tax returns and tax assessments is largely done in an electronic way. Corporations report in January; individuals report in May.

Withholding taxes

Withholding Tax is payable on distributions to non-resident foreign individuals or corporations in accordance with the tax laws and any relevant tax treaty.

HR/ Labour Law

Employment law

An employer may agree a fixed term or permanent contract. The maximum fixed term contract is 1 year. In most cases (except in education), if an employee works more than 2 years on a fixed term contract, they are deemed to be permanent employees.

Korea has a very restrictive system of employment law – it is very difficult to dismiss employees. Employers should be strategic in their hiring decisions.

It is notable that the Korean Labour Law (primarily the Labour Standards Act) applies in a limited way to companies which employ less than 5 employees.

Four Insurances

Employees are required to contribute to the what is known as the “Four Insurances”. These include: National

Pension (NP), National Health Insurance (NHI), Employment Insurance (EI), and Worker's Compensation Insurance (WCI). The contributions are based broadly on the employee's pay.

Pension

There is a mandatory national pension fund into which all employees must contribute.

Korea has reciprocal agreements with some countries who may take out their pension as a lump sum when they leave Korea before pensionable age (65). Other countries such as the UK and participants must wait until they attain 65.

Payroll

When starting a business and employing staff, the company must register with the tax authorities. Wage tax and social security are paid monthly to the tax authorities.

Visa and work permits

There is a comprehensive system of visas for various occupations. Korea wants to keep tight control of its immigration policy.

Generally the visa is sponsored by the employer unless the applicant is married to a local, or has Korean heritage.

Once a visa has been granted an Alien Registration Card is issued. This attaches to the person and is necessary for many things such as taxation and banking.

Contact us

The information provided in this guide cannot be exhaustive and we recommend anyone considering doing business in South Korea should seek professional advice from our member firms before making any business or investment decision.

Contact our member firms in South Korea to discuss your requirements:

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