

PREFACE

Dear readers,

The Korean government carried out tax reform in 2007 based on the vision of creating a simple, fair and pro-growth tax system. Under the vision, the government set four areas to focus on: i) expanding support for low-and middle-income families, ii) developing growth engines for the future, iii) broadening tax bases by improving transparency and iv) advancing tax system.

For each of the four areas, many reform measures have been taken. Highlights of the reform can be summed up as follows: with respect to the first area, adjustment of income tax base brackets, extending educational cost deduction and expanding support for the elderly are contained. The second covers expanding support for venture companies and SMEs, environment and energy industry and partnership taxation. The third contains measures to improve transparency in tax bases and to clarify substance-over-form rule to prevent tax evasion. The fourth covers paying national taxes using credit cards, making tax system easy-to-understand and name change of Special Excise Tax into Individual Consumption Tax.

The Korean government expects the tax reform to create a favorable environment for more investment and consumption, to build a business-friendly environment as well as to encourage job-creation, ensuring fiscal soundness in a sustainable manner to prepare for aging and low-birth rate society. This tax reform is also expected to advance and upgrade Korea's tax regime to the level of global standard.

Korean Taxation 2008 provides updated information on the tax year 2008 in an easy-to-understand manner. I hope that this edition, like its previous editions, will serve as a useful reference for readers both at home and abroad.

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Part 1: Introduction

Chapter I: Tax System in Korea

1. Taxes in Korea

Taxes in Korea comprise national and local taxes. National taxes are divided into internal taxes, customs duties, and three earmarked taxes; the local taxes include province taxes and city & county taxes as shown below.

National Taxes

Internal Taxes

Direct Taxes

Income Tax

Corporation Tax

Inheritance Tax

Gift Tax

Comprehensive real estate holding Tax

Indirect Taxes

Value-added Tax

Individual Consumption Tax

Liquor Tax

Stamp Tax

Securities Transaction Tax

Customs Duties

Earmarked Taxes

Transportation· Energy· Environment Tax

Education Tax

Special Tax for Rural Development

Local Taxes

Province Taxes

Ordinary Taxes

Acquisition Tax

Registration Tax

Leisure Tax

License Tax

- Earmarked Taxes
 - Community Facility Tax
 - Regional Development Tax
 - Local Education Tax
- City & County Taxes
 - Ordinary Taxes
 - Inhabitant Tax
 - Property Tax
 - Automobile Tax
 - Agricultural Income Tax
 - Butchery Tax
 - Tobacco Consumption Tax
 - Motor Fuel Tax
 - Earmarked Taxes
 - Urban Planning Tax
 - Business Place Tax

The national internal taxes consist of direct and indirect taxes and each consists of five internal taxes. Of these ten taxes, the Income Tax, Corporation Tax, and Value Added Tax make up the bulk of the Korean tax revenue. There also exist three national earmarked taxes, namely the Transportation·Energy·Environment Tax, Education Tax, and Special Tax for Rural Development; the revenues from these sources go directly to pre-designated government programs.

There are sixteen local taxes, and they are divided into province and city & county taxes. At the province level, there are four ordinary taxes and three earmarked taxes. At the city & county level, there are seven ordinary taxes and two earmarked taxes. In the six large specially designated cities that are run as autonomous local administrative units (independent of the provinces they appertain to), the tax composition is slightly different from that of the provinces and cities or counties, although the residents are required to pay the same taxes.

A person is either a resident or a non-resident of Korea depending on residence or domicile. A resident is liable to income tax on items of income derived from sources both within and outside Korea. On the other hand, a non-resident is liable to income tax only on items of income derived from sources within Korea.

Under the income tax law, income earned by both residents and non-residents is subject to global and schedular taxation. Under global taxation, real estate rental income, business income, earned income, and miscellaneous income attributed to a resident are aggregated and taxed progressively. Interest and dividends are subject to tax withholding. Non-residents are similarly taxed on income from Korean sources. The tax rates on individual income range from 9% to 36%.

When a company is incorporated in Korea, it is deemed a domestic

corporation and is liable to tax from worldwide income whereas a foreign corporation is liable to tax on Korean source income. The corporate income tax rates are 15% and 27%. A foreign corporation without a permanent establishment in Korea is subject to withholding tax.

2. Tax Laws and Regulations

A Presidential Decree may be set in order to enforce the tax laws. The Minister of Finance and Economy also enacts Ministerial Decrees to enforce the Presidential Decree, to make rulings and authoritative interpretations of the laws, and to enforce the decrees. In addition to the Presidential and Ministerial Decrees, the Commissioner of the National Tax Service may issue administrative orders and rules to ensure the consistent application of the laws. The courts of justice have the final authority in interpreting the tax laws, and the rulings and interpretations by tax authorities do not bind. Laws of national taxes are shown in the table below.

The Constitution also provides for the principle of local autonomy. Under this principle, local governments are given the right to assess and collect local taxes. The Local Tax Law, the Presidential Enforcement Decree on Local Tax Law, and the Ministerial Enforcement Decree on Local Tax Law are enacted under the Constitution.

Laws of National Taxes

Classification	Law	Presidential Decree	Ministerial Decree
<u>Direct Taxes</u>			
Income Tax	Income Tax Law	Enforcement Decree on Income Tax Law	Enforcement Decree on Income Tax Law
Corporation Tax	Corporation Tax Law	Enforcement Decree on Corporation Tax Law	Enforcement Decree on Corporation Tax Law
Inheritance and Gift Tax	Inheritance Tax Law	Enforcement Decree on Inheritance Tax Law	Enforcement Decree on Inheritance Tax Law
Comprehensive Real Estate	Comprehensive Real Estate	Enforcement Decree on Comprehensive Real	Enforcement Decree on Comprehensive

holding tax	holding tax	Estate Holding Tax Law	Real Estate Holding Tax Law
<u>Indirect Taxes</u>			
Value-Added Tax	Value-Added Tax Law	Enforcement Decree on Value-Added Tax Law	Enforcement Decree on Value-Added Tax Law
Individual consumption tax	Individual consumption tax Law	Enforcement Decree on Individual consumption tax Law	Enforcement Decree on Individual consumption tax Law
Liquor Tax	Liquor Tax Law	Enforcement Decree on Liquor Tax Law	Enforcement Decree on Liquor Tax Law
Stamp Tax	Stamp Tax Law	Enforcement Decree on Stamp Tax Law	Enforcement Decree on Stamp Tax Law
Securities Transaction Tax	Securities Transaction Tax Law	Enforcement Decree on Securities Transaction Tax Law	Enforcement Decree on Securities Transaction Tax Law
Transportation ·Energy ·Environment Tax	Transportation ·Energy ·Environment Tax Law	Enforcement Decree on Transportation ·Energy ·Environment Tax Law	Enforcement Decree on Transportation ·Energy ·Environment Tax Law
<u>Earmarked Tax</u>			
Education Tax	Education Tax Law	Enforcement Decree on Education Tax Law	
Special Tax for Rural Development	Special Tax Law for Rural Development	Enforcement Decree on Special Tax Law for Rural Development	
<u>Others</u>			
Basic Rules and Tax Appeal	Basic Law for National Taxes	Enforcement Decree on Basic Law for National Taxes	Enforcement Decree on Basic Law for National Taxes
Tax Collection	National Tax Collection Law	Enforcement Decree on National Tax Collection Law	Enforcement Decree on National Tax Collection Law
Tax Evasion	Tax Evasion	Enforcement Decree on	

Punishment	Punishment Law	Tax Evasion Punishment Law	
Tax Exemption and Reduction	Special Tax Treatment Control Law	Enforcement Decree on Special Tax Treatment Control Law	Enforcement Decree on Special Tax Treatment Control Law
Coordination of International Tax Affairs	The Law for the Coordination of International Tax Affairs	Enforcement Decree on the Law for the Coordination of International Tax Affairs	Enforcement Decree on the Law for the Coordination of International Tax Affairs
<u>Customs Duties</u>	Customs Law	Enforcement Decree on Customs Law	Enforcement Decree on Customs Law
Drawback of Customs Duties	Special Law for Drawback of Customs Duties	Enforcement Decree on Special Law for Drawback of customs Duties	Enforcement Decree on Special Law for Drawback of customs Duties
Local Tax	Local Tax Law	Enforcement Decree on Local Tax Law	Enforcement Decree on Local Tax Law

3. Tax Administration

The Office of Tax and Customs at the Ministry of Strategy and Finance is responsible for planning tax policies and drafting tax laws, while the National Tax Service carries out the administration enforcement, which includes tax assessment and collection.

a. Office of Tax and Customs, Ministry of Strategy and Finance

The Office of Tax & Customs plans and coordinates overall national tax and customs policies. It is headed by the Deputy Minister for Tax and Customs, assisted by four Directors-Generals and fourteen Division Directors (ten for internal taxes, four for customs and duties). The divisions regarding internal taxes include Tax Policy, Special Tax Treatment, Income, Corporation, Property, VAT, Environment and Energy, Tax Analysis, International Tax affairs, International Tax Treaties Divisions. The functions of each division except four divisions for customs and duties are described as below:

(1) Tax Policy Division

- Plans tax policy in general
- Drafts the Basic Law for National Taxes and National Tax Collection Law

(2) Special Tax Treatment Division

- Plans, drafts, and interprets laws, including Special Tax Treatment Control Law, Education Tax Law, and Special Tax Law for Rural Development
- Estimates and analyzes tax exemptions and reductions
- Does research on the internal tax systems

(3) Income Tax Division

- Plans, drafts, and interprets laws concerning individual income tax and other related internal taxes excluding matters dealt by the International Tax Division

(4) Corporation Tax Division

- Plans, drafts, and interprets laws concerning corporation tax and other related internal taxes excluding matters dealt by the International Tax Division

(5) Property Tax Division

- Plans, drafts, and interprets laws and provisions of the Income Tax Law concerning capital gains tax and those of the Corporation Tax Law concerning additional tax on capital gains
- Plans, drafts, and interprets laws concerning inheritance tax and gift tax

(6) Value-Added Tax Division

- Plans, drafts, and interprets laws concerning value added tax and stamp tax

(7) Environment and Energy Tax Division

- Plans, drafts, and interprets laws concerning individual consumption tax, liquor tax, securities transaction tax, and transportation·energy·environment tax

(8) Tax Analysis Division

- Develops and implement mid-and long-term tax reform measures
- Prepares a revenue budget
- Estimates tax revenue and analyze actual tax revenue

(9) International Tax Division

- Researches, plans, drafts, and interprets laws concerning taxation on income of non-residents and foreign corporations

(10) Tax Treaties Division

- Researches, plans, drafts, and interprets tax treaties with foreign countries
- Promotes international cooperation in the tax area
- Researches foreign tax systems

b. Tax Tribunal

The Tax Tribunal, previously called the National Tax Tribunal, was established as an independent organization under the former Ministry of Finance on April 1, 1975 and is now composed of a General Affairs Division, a Supreme Judge, 6 Permanent judges, 14 non-permanent judges, and 12 Examiners. It is responsible for examining and judging tax appellate cases.

c. National Tax Service

The National Tax Service was established as an external organization for the Ministry of Finance on March 3, 1966, taking over the Taxation Bureau of the Ministry of Finance. It is mainly in charge of the assessment and collection of internal taxes. Headed by the Commissioner, it is responsible for establishing basic policies; and it supports tax administration by directing, supervising, and controlling the Regional, District, and Branch Tax Offices.

The National Tax Service consists of a Planning and Management Controller, a Data Management Controller, an Inspector, eight bureaus, three affiliated organizations, six Regional Tax Offices, 104 District Tax Offices, and 17 Branch Offices.

(1) Internal Organization

- i) The Planning and Management Controller is responsible for policy formulation, planning, budgeting, and the management of tax administration in general.
- ii) The Electronic Data Management Controller is in charge of managing and developing data using a computer system located in the main Electronic Data Processing System (EDPS) center in Seoul and three regional EDPS branches.
- iii) The International Tax Controller is responsible for collecting and giving out international-tax related information, dealing with cross-border tax issues.
- iv) The Taxpayer Service Bureau has four divisions: Tax Collection Division, Taxpayer Advocate Division, and Public Relations Division. The Tax Collection Division covers revenue forecasting, controlling the collection of national taxes, refunds of overpaid taxes, and the management of delinquent taxpayers. The Taxpayer Advocate Division covers tax appellate review and handles civil applications whereas the Public Relations Division covers publicity planning and coordination.
- v) The Legal Affairs & Appeals Bureau consists of four divisions: Legal Affairs Division, Tax Appeals Divisions I, II, and III.
- vi) The Individual Taxation Bureau is composed of Value Added Tax Division, Individual Income Tax Division, and Property Related Tax Division. The Corporation Taxation Bureau is made up of the following: Corporation Tax Division, Excise Tax Division, and International Operation Division.
- vii) The Corporate Investigation Bureau includes the Investigation Divisions I, II and the Corporate Affairs Division. The First Investigation Division is in charge of policy-making, planning, analyzing, and the evaluation of tax intelligence and investigation programs. The Second Investigation Division covers the collection, analysis, and management of intelligence and information related to internal tax evasion. The Corporate Affairs Division is in charge of tax investigations of large corporations and their income sources.

(2) Affiliated Organizations

- i) The National Tax Officials Training Institute, an independent organization, undertakes the training of national tax officials.
- ii) The Technical Service Institute performs technical analysis of taxable articles such as liquor and chemical products.

- iii) The National Tax Consulting Center handles various complaints and queries raised by taxpayers and offers advice and answers over the phone.

(3) Regional Tax Office, National Tax Service

Under the supervision of the National Tax Service, the Regional Tax Office is responsible for the direct guidance and control over the activities of the District Tax Offices. In addition, a Regional Tax Office directly handles the assessment of special-case taxes on certain taxpayers. There are six Regional Tax Offices nationwide, located in the cities of Seoul, Suwon, Daejeon, Gwangju, Daegu, and Busan.

A Regional Tax Office has five bureaus: Collection Support Bureau, Revenue Control Bureau, Investigation Bureaus I, II & III.

The Collection Support Division is in charge of tax collection, review of appellate applications and electronic management. The Revenue Control Division consists of Individual Tax Division, Corporation Tax Division. The Investigation Bureaus I, II & III consists of several divisions such as Investigation Management Division and Special Investigations Divisions.

(4) District Tax Office

A District Tax Office is the front-line organization responsible for the assessment, collection, audit, and investigation of all internal taxes. In general, a District Tax Office consists of the Collection Support Division, Revenue Control Division, Investigation Division I, II & III. However, organization of the individual District Tax Offices varies according to the respective scale of the districts they govern.

- The Collection Support Division is in charge of personnel administration, accounting, collection, review of appellate applications against unfair taxation, tax consultation, and general affairs.
- The Revenue Control Division consists of Individual Tax Division, Corporation Tax Division. The Investigation Bureaus I, II & III consists of several divisions such as Investigation Management Division and Special Investigations Divisions.

4. A Brief History of Taxation in Korea

A modern tax system was introduced after the formation of the Government of the Republic of Korea in 1948, after which the Tax Law Committee was established to supplement modern tax laws.

Eight fundamental tax laws such as the Income Tax Law, Corporation Tax

Law, and Liquor Tax Law were enacted in 1948. Later the Inheritance Tax Law, Travel Tax Law, Commodity Tax Law, and six more were added. The new tax system reduced the tax burden imposed on landowners, whose asset value was decreased by the Land Reform.

The Korean War (1950-1953) necessitated a change in the tax system. The Land Tax Law and the Temporary Tax Revenue Expansion Law were immediately introduced, and several existing tax laws such as the Income Tax Law were revised in order to provide for the additional revenue required to finance the war. In 1951, the Special Measure for Taxation and Temporary Land Income Tax Law was enacted, resulting in higher success in collection, and the Law contributed to the strengthening of the tax system. Thus, the land income tax replaced the general income tax as the main source of tax revenue.

Upon signing of the armistice in 1953, the government began to modify the tax system to better accommodate the economic needs during the period of peace. Such efforts led to the Report and Recommendation for the Korean Tax System by H. P. Wald, published on August 25, 1953.

a. Postwar reconstruction (1954-1961)

The Special Measure for Taxation and the Temporary Tax Revenue Expansion Law were abolished with considerable influence from Wald's Report on subsequent reforms of the tax system. The Textile Tax was absorbed into the Commodity Tax and the License Tax was transferred to the local authorities from the central government. The Income Tax System was divided into schedular taxes with flat rates and global taxes with progressive rates.

As for direct taxes, the short-term payment system, which was based on only the actual business results, was converted into a long-term payment system based on both prior estimation and the actual results. The Liquor Tax was raised substantially to increase the tax revenue. However, due to the difficulties in enforcement, several taxes including the Income Tax and the Liquor Tax were modified before the changes took effect, and resulted in lower revenue than originally planned.

In 1956, the rates on direct taxes were reduced and indirect tax rates were raised in order to alleviate the disincentive effect of high direct taxes on capital accumulation. The Asset Revaluation Tax, Foreign Exchange Special Tax, and Education Tax were introduced in 1958; the first two were abolished later. The Liberal Party initiated a tax reform for the Three-Year Economic Development Plan in 1959 upon the recommendation of a tax consultant group headed by Dr. Hall. As a result, most tax rates were reduced and the tax administration was streamlined. In general, the direct tax rates were reduced but the indirect tax rates were increased due to the tax reform, which was initiated by the Democratic Party in 1960. In addition, tax

exemptions and deductions designed to promote exports and capital accumulation were increased substantially.

In order to collect delinquent taxes that were accumulating, the Military Government enacted the Temporary Measure for Tax Collection and the Special Measure for Tax Evasion Punishment. The government reformed the Income, Corporation, and Business Tax Laws, and a new tax accounting system was established.

b. The period of economic development (1962-1967)

At the end of 1961, the government implemented a general tax reform to emphasize the elimination of irregularities within the tax administration. The reform set the foundation for a lasting and modern tax system, and provided strong support for the First Five-Year Economic Development Plan. The basic guidelines of this reform were to simplify tax administration, to promote efficient revenue collection as well as private savings and investment, and to establish an equitable tax system.

In December 1961, improvements were made in the following: Income Tax Law, Corporation Tax Law, Business Tax Law, Registration Tax Law, Travel Tax Law, Liquor Tax Law, Petroleum Products Tax Law, Admission Tax Law, Stamp Tax Law, Commodity Tax Law, National Tax Collection Law, Tax Evasion Punishment Law, Tax Evasion Punishment Law, and Tax Evasion Punishment Procedure Law. In the following year, the Adjustment Law for National and Local Tax and the National Tax Appellate Application Law were introduced. This reform established many features of the present Korean tax system. It resulted in a large increase in revenue and enabled the government to provide more public goods and services.

c. The period of sustained economic growth (1968-1973)

- (1) In 1967, another tax reform took place to reflect the progress made in the country's economic growth during the First Five-Year Economic Development Plan. Twelve of the nineteen existing tax laws were modified extensively and the Real Estate Speculation Control Tax Law was implemented. The guiding principles were the promotion of further economic development, tax equity, and rationalization of tax administration. The reform also focused on the need for a more systematic approach to tax laws.

For corporations with outstanding shares, the tax rate was reduced with an objective of mobilizing domestic capital. Tax exemption applied to dividends and interest income from bank deposits, but the rate on interest income from private lending was increased. To encourage development of strategic industries, an investment credit system was adopted and the scope of the special depreciation allowance system was enlarged. To restrict consumption levels, the Liquor Tax

was modified to an ad valorem tax and the number of items subject to Commodity Tax was increased. A special Real Estate Speculation Control Tax was introduced to discourage unproductive use of private capital.

To reduce the tax burden of low-income earners, the limit on exemptions was eased and tax credits for businesses and wage or salary earners were also instituted. At the same time, the tax burden on high-income earners (those with an annual income of more than 5 million won) was increased with the adoption of a global tax system with progressive rates.

In 1968, as a step toward a self-assessment system, field auditing of corporations with outstanding shares was abolished, tax penalties were raised, and tax credits for voluntary returns and payments were increased. The prompt refund of overpaid national taxes, supplementation of the tax deferral system, and improvement in the tax appeal system strengthened the rights of the taxpayers. This was a modification for effective enforcement of the revisions made to the tax laws in 1967.

In 1969, six tax laws including the Corporation Tax Law were revised in order to strengthen the practice of voluntary submission of returns and payments, to incorporate the green return system into law, and to establish the principle of assessment based only on objective evidence.

- (2) In 1972, the Emergency Decree on Economic Stabilization and Growth (the so-called "August 3 Special Measure") was introduced, which required business enterprises to report all of their debts and to repay them over a five-year period after a grace period of three years. Some provisions on special tax exemptions and special depreciation of up to 80% were made for strategic industries. In addition, a special tax credit equivalent to 10% of the investment amount was provided for new investments until December 31, 1974.

d. A period of economic downturn and growth (1974-1979)

- (1) Korea achieved rapid economic growth during the period of the First and Second Five-Year Economic Development Plans. However, with its heavy dependence on international trade and imports of energy and other raw materials, the economy was inevitably affected by the volatile external economic developments of the 1970s. The price increases in 1973 and 1974 of raw materials, particularly petroleum, and related effects on the economies of industrialized countries led to a significant economic downturn. Although this was rapidly overcome, the global inflation that prevailed during the 1970s had an adverse

impact in Korea. Throughout this period, fiscal measures were often undertaken for the specific purpose of counterbalancing the difficulties created by the external developments. In particular, a number of temporary fiscal measures (to stay in effect for up to one year) were adopted in the "Presidential Emergency Measure for Stabilization of National Life" in January of 1974.

Income definitions and tax allowances were regularly revised to reduce the tax burden on medium and low-income earners, which had increased as a result of inflation. At the same time, changes in corporation tax incentives reflected the government's support for heavy industries and chemical industries. Measures were adopted to promote investment by small and medium-sized businesses in overseas resource development and in the infant stock market.

- (2) In December 1974, the government undertook comprehensive reform measures of the tax system primarily to improve income distribution. The major features of the reform were as follows.

A full-scale global income tax system replaced the earlier schedular and global income tax system. To reduce the tax burden on low-income earners, generous personal exemptions were also allowed. A new rate structure reduced the tax burden on low-income earners, but the burden increased for those in high-income brackets. A new capital gains tax was also introduced to replace the Real Estate Speculation Control Tax that had been in effect since 1968.

The upward adjustment of taxable income classes and a downward adjustment of the rates applied to non-profit corporations rationalized the tax structure. This was done in order to reduce the tax burden on small and medium-sized enterprises (SMEs), to enhance the consistency of the global income tax rate structure, and to reduce the tax burden on non-profit corporations.

The scope of the tax exemption scheme was restricted to support major and strategic industries such as shipbuilding and heavy machinery. Taxpayers were given a choice of only one of three kinds of tax incentives: direct exemption, investment credit, or special depreciation. As a preliminary step toward the possible introduction of a value added tax, business tax rates were raised by 0.5% to 1% and were combined into six flat rates. Also, withholding taxes were extended to all manufacturers and wholesalers, and the reporting system was reinforced.

The Basic Law for National Taxes was enacted to clarify the legal basis of taxing power and liability to national taxes, to promote fair tax administration, and to protect the taxpayers' rights. The law included provisions for the prohibition of retroactive taxation, the principles of trust and honesty, and assessment based on bookkeeping, and other objective evidence. Under this law, the Tax Tribunal was established as a special independent agency.

The Excess Profit Tax, temporarily introduced by the Presidential Measures in January 1974, was extended beyond its original duration of one year. The tax base and rate were left unaltered.

- (3) In July 1975, the Defense Tax Law was enacted to secure adequate funding for national defense. Under this law, most taxpayers of internal direct and indirect taxes, customs duties, and local taxes, as well as advertising sponsors were subject to the defense tax ranging from 0.2% to 30% based on the relevant tax amounts, import prices, telephone charges, or advertisement rates.

The defense tax was a temporary national tax and was originally planned to stay in effect for 5 years until 1980. However, it has been extended twice until it was finally abolished in December 31, 1990.

- (4) In December 1976, the government carried out a large-scale tax reform and introduced the Value Added Tax (VAT) and the Individual consumption tax. Eighteen new tax laws also were enacted or amended under the reform. This tax reform was mainly aimed at stabilizing national life, meeting fiscal requirements for the "Fourth Economic Development Plan," and further modernizing the tax system.

The 1976 amendments to the internal tax laws generally went into effect in January of 1977, except for the Value Added Tax Law and the Individual consumption tax Law, both of which went into effect on July 1, 1977.

The traditional indirect tax system, which included a cascade type business tax, was replaced by a system mainly consisting of a consumption-type VAT and a supplementary individual consumption tax. This was devised primarily to simplify tax administration and to promote exports and capital investment. A single, flexible rate of 13% was applied to all items subject to the VAT. Significant contributions to the development of the new excise tax law based on the self-compliance system were made by the proposals put forth by J. C. Duignan, Dr. C. S. Shoup, and Professor A. A. Tait.

Entertainment and food tax, previously a local tax item, was incorporated into the national tax system. The registration tax, formerly a national tax, was converted into a local tax starting January 1, 1977.

- (5) The basic directions of the 1977 and 1978 tax reforms included: 1) reduction of tax burden for wage and salary earners and the middle income class, 2) support for small and medium-sized business enterprises, and 3) supplementary measures to make up for the deficiencies in the VAT and the individual

consumption tax.

In the tax reform of 1979, the basic objectives were the improvement in the structure of income tax and inheritance tax rates, the expansion of revenue sources for national defense, and the provision of a number of incentives for investment in the local equity market.

e. The period of recession, recovery, stabilization and liberalization (1980-1989)

Dramatic decline in GNP and high inflation in Korea was caused by another round of major petroleum price increases and the recession in the industrialized economies, not to mention the sluggish domestic economy and a poor harvest in 1980. This was offset in 1981 and 1982, although the growth was moderately volatile. Despite the fact that the government was able to successfully stabilize prices, it was apparent that economic development of Korea had reached a stage where the need for direct state intervention in the economy was not crucial, but the need for gradual liberalization of the domestic market was urgent. The government strongly emphasized welfare development, as reflected in the changes made to the existing taxes and fiscal provisions, such as reductions in tax incentives for some essential industries.

The Education Tax was introduced as an earmarked tax on December 5, 1981 and went into effect on January 1, 1982 to secure sufficient funding for improvement of the public educational system. The education tax was a temporary national tax to be levied for five years until December 31, 1986, but was extended to December 31, 1991. Upon the revision of the Education Tax Law, the Education Tax became a permanent national tax on January 1, 1991.

In light of the global economic downturn in the early 1980s, another tax law revision was made in 1982. Beginning in 1980, the world economy suffered from low growth despite increasing world trade and decreasing unemployment. Korea had been experiencing such problems since 1979 with a sharp decline in industrial output, employment, export, and market competitiveness. The most imperative task for the economy was to recover from the recession and rekindle growth in the 1980s. Fortunately, stable prices and a favorable balance of payments position gave the government greater flexibility in economic and tax policy formulation.

The tax laws were revised in the following directions.

1. In order to protect the economy from a long-term depression, corporation tax and income tax were lowered and the taxation of presumptive dividends was eased as an incentive for business enterprises to improve their financial positions as well as their structures.
2. In order to implement the real-name financial transaction system and to prepare for the global taxation of income from financial assets, such income became separately subject to higher taxation. In addition, financial assets

not previously taxed were to be taxed under a new law. A number of existing laws and regulations (e.g., the Secrecy Law for Deposits) were also modified to allow the tax authority to conduct thorough investigations of financial assets for tax purposes.

3. The categories of preferential tax exemption for specific industries were reduced once again despite the lower corporation and income tax rates. As a result, tax neutrality was further improved by adopting the principle of low tax rates and limited exemptions.
4. Tax credits were enlarged in order to reduce the burden on the low-income group without reducing the number of income tax payers. The revisions of tax laws in 1984, 1985, 1986, and 1987 reflected the government's intention to emphasize the recovery of growth potential to fuel a new round of economic and social development by means of improving income distribution and implementing social welfare programs.

The main revisions are as follows.

1. *Tax regime encouraging technology development*

Investment credit, additional depreciation, and reserves for technological development were permitted for assets related to new technology.

2. *Assessment of the value added tax*

The Enforcement Decree and Regulation of the VAT Law were amended to widen the scope of zero-rated VAT and VAT exemptions, as well as to simplify the assessment procedures.

3. *Tax measures to improve corporate financial structure*

- The presumptive dividend was phased out.
- Deductions in income for capital increases were systemized in the Corporation Tax Law.
- Excessive interests paid out were not considered as losses.

4. *Reinforcement of tax incentives for industrial restructuring*

- The Tax Exemption and Reduction Control Law was revised to eliminate the obstacles caused by the tax system for structural adjustment of the national economy.

5. *Extension of temporary national taxes*

- The Defense Tax: Dec. 31, 1985-Dec. 31, 1990

- The Tax Exemption and Reduction Control Law:
Dec. 31, 1986-Dec. 31, 1991
 - The Education Tax: Dec. 31, 1986-Dec. 31, 1991
6. *Tax incentives for newly established small and medium-sized enterprises (SMEs)*
- For SMEs newly established in an agricultural or fishing district or those related to technology-intensive businesses, the income tax or the corporation tax on income is exempt from taxation for four years (including the year of organization) and is reduced by 50% for the subsequent two years.
 - For a venture capital company that has invested in newly organized SMEs, the capital gains from transfer of shares or interests are exempt from corporation tax.
 - The dividend income of an individual shareholder of an investing company is taxed separately from global income, and is subject to income withholding at the rate of 10%.
7. *Special treatment for foreign taxes paid*
- When a resident or a domestic corporation receives income from foreign sources, the taxpayer is allowed to treat the total amount of foreign taxes paid as losses when calculating the income amount for the respective business year, or to deduct the paid foreign taxes from income tax or corporation tax.
 - The amount of taxes spared abroad is deemed to be foreign taxes paid, and is eligible for special treatment subject to the provisions of tax treaties.
8. *Establishment of the Excessive Land Holding Tax*
- The Excessive Land Holding Tax was enacted as a local tax on December 31, 1986, but did not go into force until January 1, 1988.
9. *Establishment of the Excessively Increased Value of Land Tax*
- The excessively increased value of land tax was newly established as of December 30, 1989. This tax was applied from January 1, 1990.
10. *Some property taxes replaced by or incorporated into new tax*
- The aggregate land tax had been newly enacted to replace the existing property tax on land and the excessive land holding tax.

f. Tax reform during the period of 1990-1997

Domestic economic circumstances began to change in the latter half of 1988, with an adverse impact on growth, exports, prices, employment, and balance of payments. There were several reasons for this change. First, the rate of economic growth, which had relied mainly on technology transfers and low wages, had reached its extent. Simultaneously, efforts to enhance competitiveness by expanding the infrastructure and by investing in technology development were no longer sufficient, resulting in substantially weak productivity levels in all economic sectors. Second, the lower investment levels and declining willingness to participate in the labor force resulted from economic uncertainty and instability caused by a sudden change in socioeconomic circumstances. Third, investment in real estate became exceptionally popular.

Several different measures were taken in order to correct these problems. The government granted several tax incentives for investments in facilities and technology development, targeted to improve productivity and adjustment of the industrial structure. In addition, the government strongly subdued both inflation and real estate speculation that had been distorting income distribution. Short and long-term policy tools were also prepared to encourage a better work ethic and to establish a satisfactory relationship between employees and employers.

Although the financial crisis of 1997 forced the government to adopt new approaches to economic policies and taxation, the long-term goal of fiscal integrity and efficient tax administration remains intact.

(1) Tax reform in 1989-1992

The major contents of the tax reforms from 1989 to 1992 were as follows. First, the government reduced the burden of wage and salary earners by increasing deductions for wage and salary income, medical expenses, those who do not own homes, and those who lived with aged parents. The government also increased the limits on tax credits for wage and salary earners.

Second, tax equity was enhanced among income brackets and among different types of income by strengthening the taxation on property. Tax rates were raised on financial assets (16.75%→17.75%→21.5%), on inheritances and gifts by revising the appraisal method, and on the self-employed such as doctors, lawyers, and accountants.

Third, the government simplified the personal and corporate income tax structures and lowered the rates. An alternative minimum tax system was also introduced.

Fourth, reinforcing taxation on real estate holdings renewed the property tax system. This included the following: a progressive aggregate land tax consolidating the property tax on land, a tax on excessively increased value of land (even a tax on unrealized capital gains from excessive land holding was levied), a ceiling on ownership of residential land, a tax on profits from regional development projects, and regulations forcing conglomerates to sell excessive holdings of land. In addition, the scope of tax preferences on capital gains from real estate transfers was sharply narrowed. These measures attempted to suppress real estate speculation, promote efficient land use, and stabilize land prices.

Fifth, while the defense tax was repealed as of January 1, 1991, the education tax was permanently set. Additionally, a system was introduced to transfer national tax revenue to local governments for the purpose of supporting the local autonomy, which went into effect in early 1991. The revenue to be transferred consisted of 50% of the excessively increased value of land tax, 15% of the liquor tax, and all of the telephone and education taxes.

(2) Tax reform in 1993

The new administration launched a Five-Year Plan for the New Economy in 1993. It included Korea's economic policy directives targeted for 1997, and it was expected to play a greater role than ever before.

The new Korean government enacted the measure for a real-name financial transaction system on August 12, 1993. This system had the intention of enhancing economic justice and facilitating the sound development of the national economy through normalizing financial transactions by enforcing the conduct of all financial transactions under real names.

It was expected that various tax data of current financial transactions veiled under false names or pseudonyms would be exposed during the implementation of the real-name financial transaction system. This resulted in the increase of the burden faced by such taxpayers.

To alleviate the tax burden increase from the enforcement of the real-name financial transaction system and to induce immediate consolidation of the new system, thirteen tax laws were either amended or newly enacted under the reform, one of which was the Tax Exemption and Reduction Control Law.

Other key points of the 1993 Tax Reform were to enhance tax equity, to secure financial revenue by expanding areas of taxation, and to reduce tax exemptions by the comprehensive review of the tax support system. The tax reform contributed to the adjustment of tax rates and the tax credit system; various measures were also taken to improve the management environment and the financial structure of corporations.

The main contents of the 1993 Tax Reform are as follows:

- To adjust the difference between recognizing profits and losses in both business and tax accounting
- To lower the tax rates of the corporation tax, individual tax, and inheritance and gift tax
- To adjust methods of taxation on capital gains
- To introduce a taxation deferral system in the Tax Exemption and Reduction Control Law
- To introduce a marginal tax credit system on VAT
- To adjust the rates of the individual consumption tax and the liquor tax
- To introduce the transportation tax for social overhead capital investments

(3) Tax reform in 1994-1995

The 1994 tax reform was designed to establish an advanced tax system characterized by low tax rates and a broader tax base. By pursuing a lower-rate/broader-base policy mix, the Korean government planned to establish a fair tax system in terms of horizontal equity. It also hoped to improve the efficiency of the economy by mitigating the effects of distortions caused by government intervention and by encouraging market competition.

The main contents of the 1994 tax reform are as follows.

- i) The income tax system was strengthened by incorporating interest and dividend income into the global income tax system (this has been applied since the beginning of 1996). Until 1995, interest income and dividend income were assessed separately from global income and were withheld at the rate of 20%. The improvement in the income tax system was expected to enhance tax equity for taxpayers with income from different sources.
- ii) The self-assessment system for individual income taxes was introduced and went into effect on income reported in 1996. This further simplified the process of tax administration.
- iii) Corporation tax rates were reduced to improve the international competitiveness of domestic industries.

Taxable year	Tax rate (private corporations)
1994	Income ≤ 100 million won: 18% (19.35%) Income > 100 million won: 32% (34.40%)
1995	Income ≤ 100 million won: 18% (19.35%) Income > 100 million won: 30% (31.50%)

*Figures in parentheses include the inhabitant tax.

*An additional tax of 15% is imposed on the accumulated excess earnings of unlisted large-scale corporations.

In order to induce investment, the accumulated earnings tax was improved to exclude the calculation of accumulated earnings as part of the tax amount by establishing a reserve for corporation development.

Under the new corporation tax system, carry-overs of foreign tax credits were allowed for up to 5 years. This change enhanced the competitiveness of Korean companies investing overseas. The scope of Permanent Establishment was also adjusted. The revised version established the duration and characteristics of a PE in a clear manner.

- iv) The Individual consumption tax Law (SETL) was redefined. Its categories were simplified and revised in order to improve the equity of different goods. Accordingly, tax rates were simplified from six different rates ranging from 10-60% to three different rates of 10%, 15%, and 25%.

The Korean government designed its 1995 tax reform to ensure the firm establishment of a system based on the "Incorporation of financial income into a global income base." To broaden the base for the global income tax, the Korean government carefully monitored the rapid behavioral changes of individuals and corporations in response to tax reforms; and to reduce the short-term effects of behavioral changes on the economy, the Korean government proposed supplementary measures. For example, certain kinds of interest income were not to be subject to the global income tax. In fact, adjustments of tax brackets resulted in decreased income tax burdens.

At the same time, as a part of the WTO system and the movement toward the globalization of business activities, Korean firms were expected to face severe

competition with foreign companies. With these changes already embedded in the economic environment, the Korean government tried to search for some measures to strengthen the competitiveness of Korean firms (e.g., tax incentives for research and development). In 1995, the government improved its international tax system through the application of internationally recognized standards. It also continued to improve Korea's economic efficiency by simplifying the tax system and tax compliance processes that reduce the cost of tax compliance and tax collection.

The main contents of the 1995 tax reform are as follows:

- i) In order to alleviate the income tax burden, the interest on time deposits with a maturity of five years or more was not included in the global income tax base. In addition, interest on one of the checking accounts of a family was not to be included in the global income tax base if the account does not exceed the sum of 12 million won.
- ii) Individual income tax brackets were adjusted.

Tax rate	Brackets	
	Before	Revised
10%	~ 10 million won	~ 10 million won
20%	10 ~ 30	10 ~ 40
30%	30 ~ 60	40 ~ 80
40%	60 ~	80 ~

- iii) The corporation tax rate was decreased by 2%.

Tax Year	Tax Rate (private corporation)
1995	income ≤ 100 million won: 18% (19.35%) income > 100 million won: 30% (31.50%)
1996	income ≤ 100 million won: 16% (17.20%) income > 100 million won: 28% (30.10%)

- Tax incentives were strengthened for industries such as research and development and intellectual services.
- On the condition that the tax treaty for the contracting states allowed

for indirect tax credits, foreign tax credits were permitted on dividends from foreign subsidiaries (indirect tax credits).

iv) The VAT burden was mitigated, and tax compliance costs for small businesses were reduced.

- The tax exemption limit was raised from 12 million won to 24 million won, and the limit for special cases of the VAT (tax rate: 2% of total sales) was also raised from 36 million won to 48 million won.

- The proposal introduced a new special case for those with total sales less than 150 million won.

Tax Liability = Total Sales Value Added Rate (announced by the government) 10%

v) The education tax rate was raised, and the tax base was broadened through the inclusion of tobacco sales.

vi) The proposal simplified the customs clearance process.

vii) The proposal for the legislation of the Law for the Coordination of International Tax Affairs was also submitted to the National Assembly. The purpose of this law was to streamline Korea's international tax system in accordance with international standards.

The law covered the following:

Transfer Pricing

Thin Capitalization

Anti-Tax Havens

Mutual Agreement Procedure

Mutual Assistance in Tax Matters

(4) Tax reform in 1996-1997

In 1996, the government launched tax reforms, resulting in the revision of nine tax laws and fourteen Presidential Decrees. The major tax law changes in 1996 are as follows. In order to bolster corporation competitiveness, the tax law was changed to give tax relief to technology and human resource development of corporations of small and medium-sized companies, in particular.

The Collection System of customs duties was converted from pre-payment & post-compensation to post-payment, based upon exact calculation. To enhance

equitable tax burden between different socio-economic classes, tax rates imposed on employees were lowered and inheritance and gift tax rates levied on the middle class were reduced as well. On the other hand, tax rates on transfer of high valued property were increased.

Another major revision of the tax law in 1996 was the creation of "long-term household savings" and "employee savings through stock," to promote savings and reduce the limit of entertainment expenses in order to curb conspicuous consumption. The procedure of paying taxes was simplified and the method of granting tax relief was streamlined.

g. Financial crisis and tax reform: 1998-1999

The economic crisis of Korea in late 1997 has forced the government to initiate a series of comprehensive economic reform measures to overhaul the economy. Aside from the adverse external volatility of the Asian economic crisis, there were a number of internal factors that are believed to have significantly contributed to Korea's economic crisis. They range from exposure to short-term external borrowing, a debt-laden corporate sector, inefficient financial institutions, rigid labor market, and persistent trade deficit, to excessive government intervention in the economy, which tended to distort market incentives and signals.

Although a series of unprecedented bankruptcies, a credit crunch, and the depletion of foreign currency reserves hastened the Korean economic crisis, internal factors pointed to more fundamental structural weaknesses in the Korean economy, especially in the corporate and financial sectors. The government acknowledged and responded to the crisis by initiating bold measures to restructure the corporate and financial sectors.

One of the most urgent tasks that confronted the government was the liquidation of bad loans held by domestic financial institutions. Support for the unemployed in the form of unemployment insurance payments and other social safety net expenditures was another urgent task that confronted the government as unemployment rose. Not surprisingly, as government spending rapidly grew to meet the expenditure demands necessitated by restructuring and unemployment, the budget deficit level increased at a similar pace.

Despite the expected large budget deficit, the prospect for rising tax revenue is not expected to improve in the short run, given the likelihood of continued recession and shrinking tax revenue. Increasing revenue is not anticipated because of expanded tax exemptions and rate reductions the government has granted to attract foreign capital and stimulate domestic investment and consumption. To prevent the likely result of excessive revenue deficit, the government raised tax rates on items that were believed to have been minimally affected by the economic crisis. Thus, among others,

taxes on petroleum and diesel were raised, and the progressive taxation of interest income was switched to a proportional withholding tax.

Soon after Korea reached an agreement with the IMF on macroeconomic and fiscal policy objectives, the government made a number of changes in tax laws in order to facilitate the restructuring process, to stimulate investment and consumption, and to broaden the tax base and tax revenue.

(1) Tax measures for restructuring

From early on, it was decided that tax liability should neither discourage nor prevent companies and financial institutions from undergoing necessary restructuring. Therefore, the government has exempted or reduced taxes on asset transactions for the purpose of corporate and financial restructuring.

Tax incentives to encourage and accelerate restructuring were mostly granted to transaction-related taxes such as Capital Gains Tax, Acquisition Tax, and Registration Tax. They include:

- i) Corporate mergers and acquisitions: Profits resulting from revaluation of corporate assets after mergers and acquisitions are eligible for deferral from corporate income tax until the alienation of the revalued assets. Corporate mergers and acquisitions are also exempt from the Registration Tax.
- ii) Business divisions: Capital gains resulting from revaluation of corporate assets after business divisions are eligible for deferral from capital gains tax until the alienation of the revalued assets. Business divisions are also exempt from the Acquisition Tax and the Registration Tax.
- iii) Business asset swaps: Companies that swap business assets with other companies as a part of their restructuring plan are eligible for deferral on capital gains tax on any gains resulting from business swaps. Such companies are also exempt from the Acquisition Tax and Registration Tax.
- iv) Alienation of business assets: Companies that use proceeds from the sale of real estate assets for debt payment to their creditor banks are eligible for exemption from capital gains tax. Where alienation or purchase of real estate assets is initiated for restructuring purposes, the companies making such transactions are eligible for a 50% reduction in capital gains tax.
- v) Contribution by company owners: Where company owners donate personal assets or make capital contributions to their own companies, the recipient companies are eligible for exemption from corporate income tax on such contributions and a 50% reduction in capital gains tax, as well as exemptions from the Acquisition Tax and Registration Tax.

(2) Stimulating investment and consumption

The withdrawal of foreign capital was one of the principal factors that precipitated Korea's economic crisis. Therefore, restoring the confidence of foreign investors and attracting foreign investment were the overriding priority and concern of the government. The measures that ensued after the agreement with the IMF included accelerated liberalization of domestic markets and removal of restrictions on foreign ownership of shares in domestic companies and real estate properties.

With respect to foreign direct investment (FDI), the enactment of the Foreign Investment Promotion Law (FIPL) in 1998 is noteworthy. In May 1999, provisions dealing with tax incentives for foreign direct investment (FDI) were subsumed into the Special Tax Treatment Control Law (STTCL).

The principal objective of the FIPL is to attract FDI by creating a more liberalized and favorable business environment for foreign businesses and by providing tax incentives to certain types of FDIs. Under the FIPL, foreign businesses and investors who make advanced technology FDI in Korea are eligible for exemption from individual and corporate income taxes for the first seven years, and a 50% reduction for each of the next three years. In addition, foreign businesses and investors are granted exemption from a number of local taxes such as Acquisition Tax, Property Tax, Aggregate Land Tax, and Registration Tax for a minimum of five years, and 50% reduction in the next three years. Imported capital goods are eligible for full or partial exemption from customs duty, individual consumption tax, and value added tax (VAT).

The opening of Korea's long-protected real estate market to FDI is also noteworthy. With numerous revisions to the Foreign Land Acquisition Law in June 1998, the government completely removed restrictions on real estate acquisition by foreign businesses. In an effort to attract large-scale foreign investment, a Foreign Investment Zone (FIZ) system was introduced. The national government formerly granted tax incentives to FDI in pre-designated areas; but currently the FIPL grants local governments the autonomy to designate FIZ for FDI upon the request of foreign investors. This request is based on the amount of investment and the number of expected jobs to be created from their FDI. Foreign companies that receive the FIZ designation are eligible for government support and tax benefits.

In response to the sharp drop in investment and consumption levels, the government has also revised a number of tax laws to provide tax incentives to small and medium-sized companies in order to stimulate employment and

technology investment. They include:

- i) Tax exemption on stock options: For employees of venture capital companies who elect stock options, the individual income tax on income from stock options is exempt from tax.
- ii) Tax credit and exemptions on R&D: High value-added service industries have been made eligible for tax credits and exemptions, which are normally given to manufacturing companies. Expenditures on research for the millennium bug have also been made eligible for tax credits and exemptions.
- iii) Reduced individual consumption tax: The individual consumption tax on consumer electronic goods and automobiles has been cut by 30%.
- iv) Reduced automobile tax: The tax on automobiles has been reduced to 220 won per cc from 370 won per cc for those with engine displacement greater than 3,000 cc. Likewise, the tax on automobiles with engine displacement less than 3,000 cc has been reduced to between 20 won per cc and 60 won per cc.
- v) Reduced capital gains tax: In an effort to stimulate the depressed real estate market and to accelerate the restructuring process, the government reduced each of the three brackets of capital gains tax rates from 30%, 40%, and 50% to 20%, 30%, and 40%, respectively.

(3) Broadening tax bases and increasing tax revenue

Tax revenues have been declining significantly since the beginning of 1998. Among the decrease in tax revenue, that from income-elastic tax bases has been particularly pronounced. Therefore, the government has chosen to increase taxes on such income-inelastic goods as cigarettes and gasoline to meet the cost of restructuring and unemployment benefits.

In an effort to broaden tax bases, the government also curtailed tax exemptions and reductions. One notable example is the abolition of the VAT exemption on services supplied by professional service providers such as lawyers and accountants. In addition to enlarging the tax base of the VAT, the new measure is expected to significantly improve the transparency of the income base of the professional service providers. Other changes made by the government to broaden tax bases include:

- i) Changes in the VAT: Cigarettes became subject to VAT on top of the existing local tax.
- ii) Transportation tax increase: The excise tax on petroleum increased three times in 1998. The first increase took place on January 8 from

414 won per liter to 455 won per liter and the second on May 2 to 591 won per liter. The current rate is 691 won per liter.

- iii) Withholding tax on interest: The National Assembly suspended the inclusion of interest income in the comprehensive income tax base but started to levy a 20% withholding tax on interest income as of January 1, 1998. The withholding rate has been increased to 22% beginning October 1, 1998.
- iv) Streamlining tax exemption laws: In order to broaden the tax base, the Special Tax Treatment Control Law was enacted to control the widely scattered laws that are related to exemption. Tax laws that allow exemptions and reductions are subject to sunset rules-which limit the duration of the exemptions and reductions.

h. Tax reform in 2000~2006

The following contents include a summary of the tax reforms undertaken during 2000-2004.

(1) 2000

The 2000 tax reform focused on strengthening support for the middle and working class and enhancing tax equity within the framework of overall economic policy of restructuring and building up a system based on market principles. Also tax rules, which proved to be ineffective, were revised to improve efficiency of tax system.

First, in order to lessen the tax burden of the middle and working class and improve income inequality, pension contribution was allowed to be deductible from the taxable income and the scope of credits for medical expense and earned income were expanded. Non-taxable savings for the old and the disabled were established. Meanwhile, with the population aging, those who receive pension income is going to increase. Thus the proportion of pension incomes in the total incomes is expected to augment. Pension proceeds, which are currently non-taxable, will become taxable on a gradual basis, enhancing tax equity among various incomes.

Second, the current energy-related taxation system has been based on low energy prices for the sake of price stability and industry support. As a result, during 1991 to 1997, energy consumption in Korea soared 11.4%, eight times of OECD member nations while the consumption for OECD nations was increased by 1.5%. Despite the fact that main contributors to pollutions are factory exhausts and car exhausts, heavy oil used in factories was non-taxable and tax on diesel for automobiles was lower than that of advanced nations. The number of butane gas-powered car sharply increased, as the price of butane gas was only one fourth of gasoline price. The large difference among fuels of vehicles contributes to distortion in energy consumption. To address energy waste, pollution and international payment problem

arising from these distorted energy prices, taxation system for energy was modified to be in line with the level of international standard. The price rates among gasoline, diesel oil and butane gas will be revised upward to 100: 75: 60 on a gradual basis by July of 2006.

Third, tax incentives were provided to boost local economies and regain Korean economic vigor by narrowing economic gaps among regions. Previously income tax and corporation tax had been reduced by 20% for seven industries such as manufacturing and logistics industry etc. In 2000, a total of 16 types of local small and medium-sized enterprises (SMEs) including construction, retail and wholesale industries were given income tax and corporate tax cuts by 30%.

(2) 2001

The tax reform in 2001 focused on broadening tax base via the reduction of tax exemption and deduction in order to enhance tax equity. At the same time, the tax reform was focusing on building a competitive tax system through tax cuts and business-friendly tax measures. These changes intend to recover economic vigor and secure tax revenue for medium and long term.

First, to encourage entrepreneurship of the self-employed, who had had a hard time in the process of restructuring and to relieve increased tax burdens of the self-employed as a result of expanded usage of credit card, global income tax rates were cut by 10%(10%~40 → 9%~36%) and deduction for taxable income was increased.

Second, to create business-friendly environment, various tax reforms were executed such as relieving tax burdens of corporations. Corporation tax rates of 16% and 28% were lowered by one percentage point each to 15% and 27%, respectively, and the higher corporate income tax levied on profits accumulated by certain corporations in excess of a level set by a tax law was abolished. Also, requirements for incentives relating to investment in Foreign Investment Zones were eased.

Third, tax regimes found to be stumbling blocks to corporate restructuring such as merger and investment in-kind were lifted. Under the amended tax law, environments have been created where restructuring can be done regularly by companies spurred by their self-regulation and accountability. For example, tax reconciliation items to be carried-over in a merger were expanded. Along with this, various restrictions to doing business, which were embedded in the Korean tax system, were eased. The gap between tax accounting and corporate accounting was narrowed in order to lessen burdens of corporation in reconciling these two accountings.

Forth, tax exemption or reduction was curtailed in an attempt to increase tax revenues and improve tax equity. Especially, excessive reduction or

ineffective exemption were reduced or abolished. For instance, foreign investment in specified advanced technology and industry supporting service used to be granted a 100% exemption on corporate income tax and dividend. However, under the revised tax law, exemptions for foreign investment by means of business transfer was reduced since such investment was not effective in creating new employment and facility investment. Meanwhile, exemptions needed for supporting creation of wealth of middle and working classes remained as before.

Fifth, previously in order to crack down on speculation in the real estate market, higher capital gain tax rates were provided. As the environment surrounding real estate market changed, capital gain tax regime was normalized, granting lower tax rates and smaller tax exemptions. By bringing capital gain tax rates on property to the level of global income tax rates (20%~40%→9%~36%), tax burden arising from real estate transaction was alleviated. Also the scope of tax exemption was dramatically reduced to regain the function of capital gain tax as an income tax. While the tax rate for capital gain from the sale of stocks remained the same as before, transfer of stock held for a short term by a large shareholder was subject to a flat tax rate of 30%.

(3) 2002

The 2002 tax reform centered on supporting middle and working classes, stimulating economies of local provinces and boosting competitiveness of corporation sector. Also, taxes that caused tax inequity and tax exemptions or reductions that were not effective in terms of usage of resource have been phased out to secure funds to meet increasing demands for social welfare, social overhead cost, and a better education system. Through these efforts, tax equity has been enhanced and tax base has been broadened. Main contents of the 2002 tax reforms are as follows.

First, to lessen tax burden of working classes, personnel exemption and income deduction for medical expenses were expanded. The period of income deduction for credit card usage has been extended to November 30, 2005. Additionally with regard to interests arising from long-term loans for house, deductible interest expenses were increased.

Second, to support small and medium-sized enterprise (SMEs) and beef up competitiveness of corporation, type of industries entitled to SMEs special tax exemptions were expanded by nine to 27 and type of facilities subject to tax exemption for investment into productivity boosting facilities were expanded to include supply chain management (SMC) and customer relation management (CRM) and tax credit for such facilities is raised to 7% from 5%. Further, requirements for establishment of holding companies to be provided with special tax treatments were eased to facilitate corporate restructuring.

Third, income redistribution has been worsened since the financial crisis and large corporations were expediently using complicated capital transactions

such as merger, a capital increase and a capital decrease to pass the managerial rights to the children of their owners. To address these situations, the scope for deemed gift was extended.

Forth, with the increase of capital movement and e-commerce, tax avoidance and tax evasion on the international arena were prevailing. In an attempt to combat these transactional financial crimes, Korea's 2002 tax reform allowed the exchange of certain financial information related to non-resident and foreign corporation with the foreign tax authorities on a reciprocal basis.

(4) 2003

To stimulate sluggish economy and nurture mid and long-term growth potential, tax incentives amounting to one trillion won were provided via the 2003 tax reform. Corporate tax rates were lowered to relieve corporation tax burden and tax incentives toward small and medium sized company were expanded to boost SMEs' entrepreneurship. Meanwhile, to discourage speculative real estate transactions, capital gain tax on property was raised.

On the international front, tax reforms in 2003 were composed of allowing an exchange of information on financial transactions with other countries, subjecting all international transactions under transfer pricing rules and finally revising rules on thin capitalization and controlled foreign corporations. (CFC rules)

Followings are the main 2003 tax reforms done on the domestic front:

1. To clamp down on the untaxed transfer of wealth by means of legal loopholes, an all-inclusive inheritance and gift taxation system was introduced. Under the previous law, the scope of gift and inheritance under the gift and inheritance tax law includes 14 types of constructive gifts and other similar types as well as transfer of wealth without compensation under the gift contract of Korean Civil Code. However, there were many cases where taxpayers circumvented the gift and inheritance taxes by using new types of inheritance and gift, which were not enumerated as constructive gift types. To block these expedient methods, under the new scheme, effective transfer of wealth without compensation is subject to taxation regardless of whether the transfer constitutes inheritance and gifts under the Civil Code or not.
2. The requirement for non-taxable 'one household with one house' was strengthened and tax rate on capital gain arising from transfer of property held for a short term was raised. On top of that, owners who fall into the category of 'one household with three houses' were subject to heavy taxation of 60 percent regardless of the holding period. As for the transfer of property located in areas, which are designated as real

estate speculation area, capital gain tax was levied on the value of actual transaction.

3. In order to support Korean economy in securing economic vigor and growth potential by encouraging corporation's investment into facilities and promoting foreign investment, following tax schemes were introduced.

i) To alleviate tax burden of corporations, tax rate 15% applicable to the taxable income of 100 million won and 27% applicable to the taxable income in excess of 100 million won were lowered by two percentage points respectively. This became effective from taxable years beginning after January 1, 2005.

ii) In order to encourage investment into facilities, temporary investment tax credit rate was raised by 5% to 15% and the duration of such tax credits was extended by one year to June 30, 2004.

iii) Foreign expatriates and employees working in Korea are able to opt to apply for a flat tax rate of 17% on their salary income.

iv) In order to buttress SMEs, the alternative minimum tax rates for the SMEs were decreased to 10% from 12%. The alternative minimum tax liability was suspended with respect to R&D investment tax credit enjoyed by SMEs. Thus the total R&D expense was eligible for the R&D investment tax credit.

4. Various tax incentives were provided in order to support middle and working classes such as farmers and workers.

i) The ceiling for the earned income tax credits provided to temporary workers is raised to 55% of assessed tax liabilities from the previous 45%.

ii) Previously, special deduction for education expense and medical expense had been subject to 3% limitation of the aggregate income of a taxpayer. Under the 2003 tax regime, this limitation was abolished.

iii) Tax incentives to support child's birth and childcare were newly established and extended. For instance, maternity allowance and childcare allowance are not any more taxable (up to 100 thousand won). Also ceiling on education expense for income deduction was raised.

iv) A taxpayer with 25 million won or less of earned income is entitled to deduct marriage, moving and funeral expenses from his taxable

income. Under this newly established tax law, one million won per case is a deductible ceiling amount.

5. Followings are changes made to the 2003 tax reform other than ones described above.

i) The list of taxpayers who fail to pay large amounts of taxes is disclosed in public to encourage tax compliance. The list of delinquent taxpayers whose taxes in arrears are due for more than 2 years and whose national tax exceeds one billion won are subject to this new tax regime.

ii) In order to promote tax compliance of taxpayers by encouraging reports on tax-related illegal activities, a reward is provided to the reports on tax evasion and fraud in which the evaded tax liabilities amount to 0.5 billion won or more and such tax liabilities are collected even if the tax evaders are not punished as a tax criminal.

iv) "Cash receipt system" was introduced to better assess self-employed taxpayers' income. Previously, taxpayers were encouraged to use credit card since it would prevent potential tax-evaders from failing to report cash transaction. With the introduction of the cash receipt system, even cash transaction records are automatically sent to the National Tax Service in the same way as the current credit card system and cash users are allowed income deduction equivalent to 20 % of cash receipt expenditure exceeding 15% of total salary and wage. This is effective from 2005.

v) Originally transportation tax on gasoline and diesel had been introduced in 1994 to be around for temporary 10 years to finance transportation infrastructure such as roads and railways. However the duration was extended to secure resources for social overhead capital (SOC) needed to grow as the hub of logistics in North- East Asia.

Followings are the tax reforms in 2003 on the international tax area.

1. With respect to exchanging information on financial transactions with other countries, the Ministry of Strategy and Finance provided the information on a reciprocal basis and upon request from foreign revenue authorities on a condition that the released information is strictly limited for the purpose of imposing tax. And non-residents living in Korea as well as foreign companies and branches operating in Korea come under the scope of the new measure.

2. As for subjecting international transactions to transfer pricing rules, some international transactions between related enterprises (or associated enterprises) falling under the corporate income tax law and not covered by the law of coordination of international taxes used to be subject to “the rules on denial of unfair transactions” in the past. Under the revised rule all international transactions shall be subject to transfer pricing rules, effective from 2003.

3. The purpose of thin capitalization is to limit the deductibility of excessive interest payments paid by Korean subsidiaries and branches of foreign companies, which would result in reduced tax base in Korea. More specifically, where a subsidiary or branch borrows from its controlling shareholder or head office located overseas, loans in excess of 600% of equity in case of certain financial institutions and 300% of equity in all other cases is not permitted. In other words, the interest relating to the loan exceeding that limit is not deductible for Korean tax purposes.
 - i) The scope of major foreign shareholders was expanded by adding a brother company of a domestic company as subject to thin capitalization rules. As of April 2003, foreigners owning more than 50% of shares of domestic corporations and those foreign shareholders effectively determining the course of the domestic company were classified as major foreign shareholders subject to thin capitalization rules. Also under the revised tax law, the scope of major foreign shareholders of domestic permanent establishments subject to thin capitalization rules was expanded. Foreign shareholders owning more than 50% of a brother company of the firm concerned shall be subject to thin capitalization rules.

 - ii) Deemed foreign loan with respect to the rules on thin capitalization rules was revised. In the past, only loans either issued by foreign shareholders or by the third party and guaranteed by the shareholder used to be subject to thin capitalization rules. Now other legal documents such as comfort letter, effectively guaranteeing payment of the issued loan shall be deemed as falling under the scope of foreign loans subject to thin capitalization rules. Thin capitalization rules prevail over other tax laws or transfer pricing rules in case of divergence of interpretations.

4. The CFC rules also underwent some changes. The purpose of CFC rules is to impose tax on unreasonably retained profits of subsidiaries located in “tax havens” by treating them as notional dividends paid to the Korean parent. The concept of “tax havens” under the Korean tax law refers to jurisdictions with no tax or those exempting 50% or more of income from tax or with less than 15% of tax rate. The companies falling under the

scope of CFC rules are subsidiaries located in low-tax jurisdictions whose share capital is at least 20%, either directly or indirectly owned by a Korean parent.

5. There also were some major revisions of the foreign investment regime in Korea. The Korean government recognizes the fact that foreign direct investments play an important role in the economy and designates special economic zones to facilitate an inflow of foreign investments. In designated special economic zones, qualified foreign investments on a large scale shall be granted the same benefits as in foreign investment zones. In the foreign investment zones, companies are exempt from tax for 7 years and enjoy 50% reduction for the next 3 years. In designated special economic zones, qualified foreign investments on a medium scale shall be granted the same benefits as in Jeju Free International City. In Jeju, companies are exempt from tax for 3 years and enjoy 50% reduction for the next 2 years.

What was noteworthy about new measures to promote foreign direct investments was that the proposed measures expanded tax incentives to advanced technologies. Any company capitalizing upon such technologies as information, bio or nano technologies will be granted the same benefits as in foreign investment zones, regardless of the size of investments made and their locations. Furthermore, foreign employees are able to opt to apply for a flat income tax rate of 17% on their salary income.

(5) 2004

One of the remarkable changes in the 2004 tax reform is the introduction of comprehensive real estate holding tax as a national tax to stabilize real estate markets. Along with these changes, various tax incentives to support creating jobs are main characteristics of the 2004 tax reform. On top of that, on the corporation tax and income tax areas, various amendments are made in order to lend a hand to companies in boosting their competitiveness.

Meanwhile, to enhance the country's competitiveness through inducement of foreign investment, a wide range of foreign investment incentives is provided via the 2004 tax reform. Criteria for industries to qualify for such investment incentives are eased and the scope of industry entitled to foreign investment incentives are expanded.

Finally, with regard to the taxation of foreign corporations and international transactions, the criteria for comparables used to determine arm's length prices have been eased. Along with these changes, various changes including modified criteria to evaluate a tax haven have been made to complement previous tax laws.

Followings are main contents of the 2004 tax reforms on comprehensive real estate holding tax, job-creating tax incentives and corporation tax code.

1. In order to enhance equity in tax burden and stabilize real estate market, comprehensive real estate holding tax (CREHT) is newly established. With this new tax regime, excessive holding of real estates will be discouraged.
 - i) Previously, land and residential houses are taxed separately only as a local tax. Under the new tax law, first, property tax (previous aggregate land tax is absorbed into property tax), which is a local tax, is imposed on lands and residential houses and then high-priced lands and residential houses that exceed a certain amount held by one taxpayer across the nation are combined to be imposed with CREHT as a national tax.
 - ii) Tax bases for land and residential houses are revised to be in more in line with market prices. As holding tax is more strengthened with the introduction of CREHT, registration tax regarding registering transfer of real estate ownership is lowered to 2% from 3% in order to promote real estate transaction.
 - iii) To facilitate the balanced development of local economy and sound development of national economy, the amount of tax collected is transferred to local autonomous governments. Especially local autonomous governments, which are in more financial need, are allocated first with these tax revenues.
2. Since the financial crisis, job market was resilient, producing 400 thousand to 500 thousand jobs per year. However, despite about 3% of economic growth in 2003, we saw 30 thousand jobs gone. Against this background, Korean government decides to grant tax reduction and tax credit to a company that creates jobs or retains jobs in the sense that job creation is a fundamental method to address youth unemployment, delinquent credit holders and aggravating income distribution. The main contents of such tax regime are as follows:
 - i) A company, which starts its operation and creates jobs, is provided with 50% to 100% of income tax or corporation tax reduction. Also, such a company is allowed to carry forward net operating loss (NOL) incurred within 2 years after starting operation for 7 years.
 - ii) Where the number of a regular employee exceeds that of previous year, one million won per employee in excess of the number of worker

from the previous year is deducted from corporation tax or income tax.

iii) Where a company introduces a system to retain employment such as implementing a shift system and shortening working hours, 500,000 won per retained employee is deducted from corporation tax and income tax.

3. As income tax rates are lowered by one percent, withholding tax rates are lowered by one percent to relieve withholding tax burden. 15% withholding tax rates on interest and distribution from securities investment are lowered to 14% respectively. However, 25% withholding tax rate on non-business loan remained the same as before.

4. Other related changes in corporation and income taxes:

i) Previously, dividend received from a wholly owned subsidiary was 50% excluded from taxable income of the parent company. However, under the revised tax law, such dividends received are 100% excluded from the taxable income.

ii) Company profits are taxed first in the corporation and then again in the shareholders' hands. So dividend gross-up mechanism is designed to preclude double taxation. As corporation tax rate is reduced by 2% starting from 2005, dividend gross-up rate is reduced to 15% from the previous 19%.

iii) A listed company or a large corporation having 100 billion won in net worth was not allowed to deduct interest expense on borrowings in excess of 400% of net worth of such a company. This provision is abolished as the financial structures of companies get improved.

iv) Tonnage taxation system is introduced in the shipping industry. Shipping companies, which meet certain qualification, can opt for this new tax scheme. Under the new regime, shipping companies' income is divided into shipping income and non-shipping income.

v) Where a bond is sold before maturity, the seller of the bond is required to withhold and remit withholding tax imposed on interest accrued up to the point of sale.

Foreign investment incentives in 2004 tax reforms are as follows.

1. Foreign engineers and technicians are presently provided a tax incentive to boost Korean economy's competitiveness by introducing advanced

technology. Expatriate technicians or engineers employed by Korean companies are exempt from earned individual income tax for five years from the date of employment in Korea. Qualified industries for such incentives are expanded, including logistics industry and market research and public opinion polling.

2. Tax benefits that are presently granted to foreign investment companies in Free Economic Zones will be provided to foreign investment in foreign-exclusive industrial complexes. To qualify for the tax exemption or reduction, a foreign investment company should be engaged in the manufacturing or the logistics industry and satisfy a certain minimum investment requirements.
3. Foreign investment in high technology or industry supporting business should meet certain requirements to be provided with tax incentives. Under the amended rules, an exception to these requirements is provided to foreign investment in the R&D industry.

Followings are with regard to the taxation of foreign corporations and international transactions:

1. Previously, the scope of comparability to determine the arm's length price for cross-border transaction with related parties was limited to cross-border transaction between the independent companies. Under the revised tax law, a taxpayer is allowed to use domestic transactions with related parties in choosing comparable transaction to determine arm's length prices.
2. The criteria for evaluating the nature of a low tax country under the anti-tax haven rule have been eased. Under the amended rule, a tax haven is defined as a low tax country where 50% or more of income is tax exempt or where effective tax rates on taxable income for the past three years (previously it was one year) is an average 15% or less.
3. A foreign corporation in Korea may deduct foreign tax paid or to be paid or may use it as a credit against the Korean corporate income tax. However there was not any specific provision about the carry-forward of excess foreign credit. The revised rules make it clear that foreign corporations in Korea, like domestic companies, will be entitled to carry forward such excess foreign tax credits for five subsequent years.
4. Korean residents with 20 % or more of interest in a foreign company situated in tax haven are required to report information on

investment in the foreign company whose head office or principal office is located in tax haven. Under the revised tax law, the reporting requirements also apply when the effective management of a foreign company is located in a tax haven.

(6) 2005

Tax reform measures introduced for the 2006 tax year are framed around six goals: furthering economic vitality and boosting growth potential; addressing the issues of population aging and widening gap between the rich and the poor; stabilizing real estate market; broadening tax base through the phase-out of non-taxation benefits and tax incentives; promoting balanced development of all areas of the nation; and enhancing convenience for taxpayers.

Highlights of tax changes for the 2006 tax year by goal are as follows:

1. Furthering economic vitality and boosting growth potential:
 - i) Tax incentives for corporate reorganization have been reinforced. To begin with, in the case of M&A, conditions to be met for deficit carried over to the subsequent financial year which has been taken over by a transferee company to be deductible have been relaxed. In principle, to be eligible for such deduction, the transferee company is required to maintain separate accounts for assets, liabilities, profits and loss from the business it has taken over, and such deficit carried over is deductible to the extent of income generated from the business concerned. In the case of M&A between companies in the same industry or SMEs, however, deficit carried over which has been taken over by the transferee company is now deductible to the extent of the transferee's portion of the income from the business it has taken over out of total income of the transferee company after the M&A (the proportion is calculated based on the share of assets for the business taken over in whole assets belonging to the transferee company after M&A), even when the condition regarding separate accounting is not met.

Also, under the revised tax law, in case where two unrelated domestic companies swap assets of the same kind which each of them has used for 2 or more years for their businesses, any gains from the asset swap is deductible as long as they are used for business purpose until the end of the business year in which the swap takes place. Previously, for such gains to be deductible, the exchanged assets were required to be used for the same purpose as that before the swap.

- ii) Business taxation has been refined in a more efficient way. Firstly, for certain businesses such as hotel and massage, advertising costs are now deductible in full amount.

Secondly, there have been efforts made to ensure that Korean tax laws regarding international transactions are in line with international standards. First of all, anti-avoidance rules have been toughened. The substance-over form rule is now specified in the Law for the Coordination of International Tax Affairs with a view to making clear that in case where investors unduly claim tax treaty benefits by making investments in Korea through a paper company established in tax haven jurisdictions for tax avoidance purpose, they may be taxed in Korea in accordance with the substance-over-form rule.

Another noticeable change in international taxation is the introduction of the special withholding procedure applicable to foreign companies or funds based in certain areas or countries to be designated by the Minister of the Finance and Economy (effective July 1 2006). Under the newly introduced procedure, in case where foreign companies or funds in areas or countries to be designated by the Minister of Finance and Economy derive interest, dividends, royalties or capital gains from the alienation of shares in Korea, they are subject to withholding tax under the domestic tax law, unless they obtain a prior approval of the Commissioner of the National Tax Service to apply benefits under tax treaties. In case the investor concerned establishes within 3 years that he or she is the beneficial owner of the income concerned, being entitled to a reduced tax rate or non-taxation benefit provided under the relevant tax treaty, the tax authorities, after due diligence, will refund an amount equivalent to any overpaid tax plus interest accrued thereon within 6 months from the application for the refund.

Moreover, changes to make the nation's international taxation system more efficient have been made. For example, when it comes to the rendering of professional services in Korea by non-resident individuals or foreign companies without PE in Korea, expenses such as airfare, accommodations and meal expenses are excluded for withholding purposes under the revised tax law. And the definition of a domestic company has expanded to include those having an effective place of management in Korea.

Anti-tax haven rules have been improved as well. Previously, those countries or areas in which an effective tax rate is 15% or less of actually accrued income used to be judged as tax haven

jurisdictions. Now, even when the afore-mentioned criterion is met, those companies with actually accrued annual income of 100 million won or less are not subject to anti-tax haven rules.

Thirdly, there have been some changes in deductions for donations. For example, certain donations as defined under the Corporation Tax Law which used to be deductible to the extent of total income in the past are now deductible only to the extent of 50% of total income.

Fourthly, taxation on entertainment expense has been improved. In the past, companies were required to collect documentary evidence for entertainment expenses in excess of 50,000 won so that such expenses can be deductible. Under the revised tax law, however, in the case of expenses incurred in relation to matters for congratulations or condolences, such obligation is required only for expenses exceeding 100,000 won.

- iii) Tax changes have been made to help the nation's economy regain vitality. A system under which tax benefits are granted when offspring are granted properties as inheritance prior to their parents' death so that such properties can be used for starting a business has been introduced. Not only that, the expiration date of tax credits granted to investment in energy saving facilities has been extended to the end of 2008. And privately-financed projects for facilities of private universities are now exempted from value-added tax under the revised tax law.

2. Addressing the issues of population aging and widening gap between the rich and the poor:

- i) Various measures have been taken with a view to ensuring stable life of retired wage earners. For example, under the revised tax law, retirement pension contributions are deductible so that the use of the retirement pension plan can be promoted. Previously, up to 2.4 million won per year of pension savings contributions was deductible. Now, up to 3 million won per year of pension savings contributions and retirement pension contributions combined is deductible. Also, the ceiling on deductions for retirement pension has been raised to 9 million won from 6 million won while deductions for lump sum retirement allowance has been lowered to 45% from 50% of the allowance amount so that the switch of the lump sum retirement allowance system to the retirement pension system can be encouraged.

- ii) There have also been some changes aimed at supporting SMEs and the self-employed. VAT rates applicable to the small-sized self-employed have been cut. The rate has been reduced by 5% for the retailing business with the tax being slashed by 10% in the case of restaurant and lodging businesses (The reduced rates will apply on a temporary basis until the end of December 2007).
- iii) With a view to supporting life of middle and low income families, construction of rental-purpose houses has been promoted through the introduction of new tax incentives. For example, dividends paid by real estate indirect investment vehicles investing in houses built for the long term (10 years or longer) rental are now subject to final withholding tax at 14%.
- iv) Tax incentives for supporting production activities by farmers and fishermen have been expanded. For example, the expiration date of the period during which equipment for agriculture or fisheries is VAT zero-rated has been pushed back by 3 years to the end of 2008.

3. Stabilizing real estate market:

- i) Taxation on capital gains on real estate has been toughened. Firstly, under the revised tax law, capital gains tax is imposed based on the price at which the transaction of real estate is made instead of government-evaluated price (effective across-the-board from 2007).

Secondly, in case where a household which owns 3 or more houses including the right to live in new apartment to be built taking the place of old apartment transfers any of them, the capital gains from the transfer is now subject to tax at the rate of 60% and is not eligible for special deduction for long-term holding any more (effective from 2007). Previously, the right to live in the new apartment to be built taking the place of old apartment was not counted in for the purpose of capital gains tax.

Thirdly, taxation on capital gains in relation to the transfer of a house by a household owning 2 houses has also been toughened. Under the revised tax law, capital gains tax rate of 50% applies to capital gains from such transfer and, in this case, special deduction for long-term holding is not applicable (effective from

2007).

Fourthly, in case where capital gains are derived from the transfer of non-business purpose land and farmland, forest and pasture owned by an absentee landlord, the capital gains tax rate of 60% applies beginning from 2007.

- ii) Comprehensive real estate holding taxation has also been strengthened. Previously, the comprehensive real estate holding tax was imposed based on the sum of houses or lands owned by a single person. But the imposition of tax is now made with the basis on the sum of houses or lands held by a single household. Also, the threshold for the imposition of the tax has increased to 600 million won and 300 million won for residential house and land, respectively.
4. Broadening tax base through the phase-out of non-taxation benefits and tax reductions & exemptions: For purpose of broadening tax base, non-taxation benefits and tax relief have been scaled back. Deductions for credit card charges have been lowered to 15% from 20%. Also, the scope of eligibility for tax breaks regarding comprehensive savings has been reduced and, as a result, those under 20 are not qualified for such tax breaks any more. Furthermore, capital gains realized by farmers from the transfer of farmland for the purpose of acquiring another parcel of farmland in its place, which were previously non-taxable, are now 100% tax-exempt with the ceiling of 100 million won for 5 years. Not only that, the non-taxable amount allowed for labor income from foreign sources has been cut to the level of 1 million won per month from 1.5 million won per month. And profit making businesses carried on by the government or local authorities is now subject to tax.
5. Promoting balanced development of all areas of the nation: The expiration date for tax deferral granted for companies whose factories or head office have been relocated out of large cities and the Seoul metropolitan area, respectively, to provinces has been pushed back to the end of the year 2008. The eligibility criterion for tax credit for companies' phased relocation to provinces has also been relaxed and the sunset date for such tax credit has been extended to the end of 2008. Moreover, the scope of industries eligible for special tax credit for SMEs which are located in areas other than the Seoul metropolitan area has been expanded to include ship management, construction waste disposal service, advertising and etc., while the expiration date for such special tax credit system has been extended to the end of 2008 as well.

6. Enhancing convenience for taxpayers: The year-end tax adjustment process has been simplified. Under the new system, all the necessary documents are handled online with no papers being involved and the NTS is also able to rely on the computer system in confirming whether or not the taxpayer concerned has been unduly granted deductions.

(7) 2006

Tax reforms conducted in 2006 are aimed at achieving two main goals of supporting sustainable and broad-based economic growth and enhancing competitiveness of the tax regime. Based on these goals, the Korean government has identified five areas which merit particular attention: supporting job creation through furthering economic vitality; supporting the mid-and low-income households; helping better identify hard-to-trace income; streamlining tax incentives to enhance tax neutrality; and rationalizing and advancing the tax system.

The gist of tax changes for the tax year 2007 is as follows:

1. Supporting job creation through furthering economic vitality

- i) Several measures have been adopted to help keep momentum of economic recovery going. Firstly, the sunset date for the tax credits aimed at encouraging investment in facilities has been extended. To be more specific, both tax credit associated with investment in facilities for environment protection and safety (i.e. credit equivalent to 3% of value of investment made) and tax credit associated with investment in facilities for productivity improvement (i.e. credit equivalent to 3% (7% in the case of an SME) of investment value) have been extended for another three years through the end of 2009.

Secondly, special provisions to grant favorable holding tax treatment to land for business use by the service industry have been newly established. Under the new provisions, the value threshold for the Comprehensive Real Estate Holding Tax applicable to such land is 20 billion won and the excess over the 20 billion mark is subject to relatively low rate of 0.8%. Business eligible for this benefit includes amusement facility operation business, ski resort business, public golf course business, distribution center business, etc..

Thirdly, the scope of entertainment expense has been adjusted in favor of companies. Advertising expenses (e.g. expenses incurred for manufacturing samples) to the extent of 30,000 won per annum per client and sales promotion fees paid to unrelated salespeople are not included in the scope of entertainment expense any more and, thus, are now fully deductible, which was not the case prior to the revision of the tax law.

Fourthly, the criteria used for determining applicability of the rule of

denial of unfair transactions have been improved in a way that promotes business activities of companies. Previously, in case where the payment made between related parties differs from the market price, the rule applied no matter what. However, under the revised tax law, where the difference between the market price and the payment actually made is negligible (i.e., unless the difference is 5% or more of the market price or 300 million won or more), the rule does not apply, except for the case where the market price is obvious (e.g. listed shares).

Fifthly, the withholding tax rate applicable to interest income derived by non-resident individuals or foreign companies from bonds issued by the State, local authorities and domestic companies has been lowered from 25% to 14%, the same level applicable to resident individuals and Korean companies, with a particular aim of encouraging investment in bond markets by foreign investors.

- ii) There have been some tax revisions to help expand growth potential. For starters, tax credits for encouraging investment in R&D have been increased or extended. For example, the expiration date of tax credit for investment in research and test facilities, job training facilities and facilities for commercializing new technology (i.e. the amount equivalent to 7% of investment is deductible against the individual income tax and the corporate tax) has been pushed back to December 31st, 2009 from December 31st, 2006.

Tax credit for research & human resources (HR) development has also been increased, and extended for another three years. Previously, the credit amounted to 40% of the excess of the research & HR development expense incurred by a large company for the tax year concerned over the average of such expense over the four years immediately preceding that year. From 2007, in the case of a large company, the tax credit equals the sum of 40% of the excess of expenses incurred for research & HR development conducted by the large company itself for the taxable year concerned over the average expense incurred for research & HR development conducted by the company itself over the four years immediately preceding that year and 50% of the excess of expenses incurred for commissioning SMEs or universities to conduct research & HR development on behalf of the large company for that taxable year over the four-year average expense incurred for commissioning SMEs or universities to conduct research & HR development.

Moreover, the scope of deductible expenses incurred in association with education of preschoolers has been expanded to include the expense paid to sports facilities for preschooler's lesson purpose in order to reduce tax burdens of wage earners and support education of preschoolers.

In the meantime, with a view to encouraging childbirth and providing childcare support, eligibility and amount of extra allowance for income tax purposes have been changed. Prior to the revision of tax law, extra allowance was granted to an income earner who is not claiming any other dependents and to a single income earner with a single dependent eligible for basic allowance, and the amount of allowance was 1 million won and 500,000 won, respectively. Under the revised tax law, however, a resident with earned income or business income who has two or more dependent children eligible for basic allowance are eligible for extra allowance equivalent to 500,000 won plus additional 1 million won per every child added to the first two children (e.g., 2 children-500,000 won, 3 children-1.5 million won, 4 children-2.5 million won...).

- iii) Measures for providing support for SMEs and venture companies have been developed. To begin with, in case of switch of a line of business by an SME which has been operating for 5 or more years, 50% of the income tax and the corporate tax are exempted in the year in which the new business generates income for the first time and in the subsequent 3 years. In addition, the expiration date for 50% exemption of the income tax and the corporate tax granted to start-up SMEs in the year during which the company generate income for the first time and in the following 3 years has been extended by another three years to December 31st, 2009.

2. Providing support for the mid- & low-income households

- i) Most noticeable change is the introduction of the earned income tax credit (EITC) aimed at financially supporting the working poor and encouraging people to work. To be eligible for the new benefit, households with earned income from employment must have total annual income of less than 17 million won, two or more dependent children under age 18, own no house and value of total property held must be less than 100 million won. The EITC is expected to benefit around 310,000 households and to cost nearly 150 billion won. The credit will start to be paid from 2009 based on income earned in 2008.
- ii) Other measures designed to reduce tax burdens of wage earners, the self-employed, farmers/fishermen and the elderly have also been adopted. Conditions to be met to benefit from marriage and funeral expenses-related deduction have been eased. Previously, only those wage earners who are aged 20 or younger or 60 or older were eligible for the deduction. But from 2007, the age requirement does not apply so that the benefit can reach more people than before.

Also, the amount of standard deduction granted to business owners who meet certain requirements such as registering as merchant of credit cards and issuer of cash-receipt and using a business account has been raised

from 600,000 won to 1 million won, the same level applicable to wage earners. As for farmers and fishermen, the scope of machinery for agricultural and fishery purposes eligible for VAT refund has been expanded to include three more items for the former category and two more items for the latter category.

Besides, the scope of small size savings account of 30 million won or less, interest or dividend income from which is non-taxable, has been expanded as the age requirement applicable to women has been eased from 60 years or older to 55 years or older.

Meanwhile, in response to rapid population aging, new provisions have been established to make interest income from loan on reverse mortgage extended to the elderly aged 65 or older deductible against pension income to the extent of 2 million won per annum.

- iii) With a view to stabilizing the real estate market, taxation on capital gains has been toughened. For example, non-taxation benefit for capital gains involving a newly-built housing has been scaled back. Previously, in case where an owner of two houses one of which is a newly built house transfers the other house, capital gains were non-taxable as the new house was deemed not to be held by the owner and there was no sunset clause for this benefit. After the revision of the tax law, however, this benefit is applicable only when such transfer takes place by the end of 2007.

3. Helping better identify hard-to-trace income

- i) First of all, various measures have been adopted to enhance identification of income derived by professionals and self-employed businesses. For example, business owners doing transactions directly with consumers and having annual income of 24 million won or more (the income threshold does not apply to those who provide professional services) are now required to register as issuer of cash receipt. If the obligation is not fulfilled, the penalty is charged.

Moreover, from 2007, business owners providing professional services (e.g. lawyer, certified public accountant, doctor, dentist, etc.) are required to adopt the double-entry system of recording transactions, regardless of the size of their income. Prior to the tax law revision, the income threshold of 75 million won applied.

Not only that, the tax law has been revised to prescribe that sole proprietors who are required to adopt the double-entry system and whose annual income reaches a certain level (i.e. 300 million won

for retail/ wholesale business, 150 million won for manufacturing, restaurant, lodging business, and 75 million won for real estate rental, service business) should open a business account with bank and use the account for payment or receipt of personnel expense or rents or for transactions payment for which is made through financial institutions.

At the same time, the scope of deductible medical expense has been expanded to include medical expense paid for dependents for treatment at any medical institutions or for purchase of any medicine on or after December 1st of 2006 so that income derived by medical institutions can be better identified by the tax authorities and tax burden of wage earners can be alleviated. One thing to note is that this expanded scope will apply just for two years on a temporary basis.

Meanwhile, to be eligible for bounty for reporting tax evasion, the value concerned should now be at least 100 million won per case compared to 500 million won or more per case prior to the revision of the tax law.

- ii) Efforts have been made to ensure that the small size self-employed do not suffer from increased tax burden as a result of the measures to better identify hard-to-trace income. For example, in case where the income of business owners who meet certain requirements such as using a business account and maintaining adequate books and records for the tax year concerned has increased by more than 120% year-on-year, any tax amount attributable to the excess of that year's income over 120% of the income of the previous year is now deductible against income tax, corporate tax and VAT. Previously, the way to calculate the amount deductible against such taxes was much more complicated and the tax credit was granted over the period of two years.

Similarly, the tax credit equivalent to the amount calculated by multiplying the tax amount estimated by the ratio of 50% of income additionally identified as a result of the acceptance of credit cards, the issuance of cash-receipts and use of other means of similar nature for the taxable year concerned to the total income for that year has been extended for another two years through the end of 2008.

4. Streamlining non-taxation and tax relief so that tax neutrality can be ensured

Out of fifty five non-taxation and tax reduction/exemption benefits which were due to expire in 2006, thirty two benefits have been extended while the remainder were abolished or scaled back. Besides, six tax incentives with no expiration date have been scaled back or repealed. Most of the benefits which were extended are the ones aimed at encouraging R&D and facility investment associated with expansion of growth potential and reducing tax burden of wage earners, farmers, fishermen and SMEs. In determining whether to repeal or scale back a certain tax incentive, such factors as whether the objective of the benefit concerned has been fully achieved and whether the benefit is in line with international standards were taken into account.

5. Rationalizing and advancing the tax system

The proportion of deductible dividend income received by a holding company from its subsidiary will be increased in a phased manner from 2007 so that corporate transparency can be further enhanced and companies can be encouraged to change their corporate structure to a holding company. In other words, dividend income derived by a holding company from holding of more than 40% shares in a listed company will be deductible in full from 2009 (Until the end of 2008, the proportion of 90% will be deductible), while in case where the holding company holds 30-40% shares in a listed company, 70% and 80% of dividend income derived there from will be deductible in 2007 and in 2008 and beyond, respectively.

(8) 2007

The purpose of tax reform in 2007 is to create a simple, fair and pro-growth tax system. Tax reform directions are as follows: expanding support for low-and middle-income families, developing growth engines for the future, broadening tax bases by improving transparency in tax revenue source and advancing tax system.

Highlights of 2007 Tax Reform:

1. Expanding support for low-and middle-income families and the socially disadvantaged:

- i) Tax base brackets of global income have adjusted upward.

Before		After revision	
Tax Base	Tax Rate	Tax Base	Tax Rate
10M won or less	8%	12M won or less	8%
More than 10M won ~ 40M won or less	17%	More than 12M won ~ 46M won or less	17%
More than 40M won ~ 80M won or less	26%	More than 46M won ~ 88M won or less	26%
More than 80M won	35%	More than 88M won	35%

- ii) Medical and educational cost deduction for self-employed businessmen

Medical and educational costs are deductible for self-employed businessmen, who have paid taxes faithfully. The deduction is allowed sometime between 2008 and 2009 in the form of two-year sunset clause. The deduction has been expanded gradually depending on its performance.

- iii) Expanding support for the elderly and the disabled

Deductible items are added to include insurance premiums for long-term elderly care paid by employees. Insurance premiums paid by employers are treated as a necessary cost under the insurance law for nursing senior citizens. The premiums are currently co-paid by employees and employers and the amount is 0.2% of payroll.

Deduction for the disabled is also allowed in case where the spouse of a lineal descendant, who is disabled, is also a disabled person. The spouse is entitled to deduction.

iv) Expanding support for low-and middle-income families

Individual consumption tax on kerosene has dropped from 181 won per liter to 90won per liter. The cut is to relieve low income families in rural areas from the cost burden of heating oil.

2. Developing growth engines for the future :

i) Expanded support for venture companies and SMEs

Requirements for tax deduction applied to start-up ventures have been relieved. For example, the period of confirming a SME as a venture company has extended to three years since its establishment. The extension aims to consider the difficulty in meeting the requirements* to be qualified as a venture company in the early period of business launching.

*The requirements: investors need to invest more than 10% of business capital, invest money needs to be at least more than 50M won and investment needs to continue more than 6 months.

ii) Environment and energy industry support

Sunset clause for bio-diesel tax deduction has extended to December 31, 2010. The extension aims to support alternative energy development.

iii) Partnership taxation system

Partnership taxation system is expected to be introduced to address double taxation issue for *Hapmyong Hoesa*, *Hapja Hoesa* and limited companies prescribed by the Presidential Decree. Partnership's income is not subject to corporate income tax and each partner's income is subject to the tax upon distributing income.

3. Broadening tax bases by improving transparency in revenue source:

The year 2007 had the end dates of sunset clauses for 22 tax exemptions and reductions. Among them, ten had expired, four had been reduced in its coverage and eight had been extended in its period.

i) Measures to improve transparency in tax revenue source

As part of an effort to enhance transparency, threshold for issuing cash receipt has been eliminated. The threshold was 5,000 won, but it was abolished to improve transparency in small payment in cash.

ii) Clarification of substance-over-form rule to prevent tax evasion

If a third party transaction* turns out to reduce taxes unfairly, it is treated as a direct transaction or a continuous activity or transaction depending on its economic substance. The treatment aims to clarify the legitimacy of taxation on various tax-evading transactions. The ban on tax evasion, which is stipulated in the Law for the Coordination of International Tax Affairs, is also included in Framework Act on National Taxes. Accordingly, the prevention of tax evasion is applied to local trades as well as international trades.

* The evasion of capital gains tax using exchange transactions, the evasion of corporate income tax using the transaction of anomaly derivatives

4. Advancing tax system:

i) Paying national taxes using credit cards

Tax payers are allowed to pay national taxes using credit cards: income tax paid by individuals or individual business owners, VAT, comprehensive real-estate holding tax, and tariffs (travelers, portable items, and freight for moving.) The allowed tax amount is limited to 2 million won or less. The credit card payment fee (around 1% of transaction) is paid by taxpayers. The adoption of credit card payment aims to help taxpayers pay taxes more easily.

ii) Making tax system easy-to-understand

To help taxpayers understand tax law, tax law has been revised to be easy-to-understand. A total of 326 provisions among 11 laws and enforcement decrees (scheduled to be revised in 2007) have been revised to be easier to read (That is 33% of 985 provisions, the total.) For example, difficult or unfamiliar terms have changed into simple and easy words.

- iii) The term Special Excise Tax has changed into Individual Consumption Tax

The name change reflects its tax purpose, which has changed to impose tax for correcting goods inducing negative externality such as automobiles and petroleum. As of 2006, the tax composition is as follows: six kinds of petroleum including kerosene and heavy oil account for 72.9%, automobiles 20.4%, taxable places 5.9%, twelve items including jewelry and precious metals 0.8%.

Part 2: Direct Taxes

Chapter II: Income Tax

1. Taxpayer

a. Resident

A person who has a domicile or has resided in Korea for one year or longer is subject to income tax on all income derived from sources both within and outside Korea. Korean public officials, directors and personnel engaged in overseas service on behalf of an employer who is a Korean resident, or a domestic company is deemed to be residents of Korea.

b. Non-resident

A person who is not a resident of Korea is deemed a non-resident and is subject to income tax only on income derived from sources within Korea.

2. Taxable, Non-Taxable and Tax-Exempt Income

a. Taxable Income

Resident individuals are taxed on their worldwide income. Non-resident individuals are taxed only on Korean-source income. Although similar, the definition of income applicable to non-residents is broader than that of income applicable to residents.

b. Global and Schedular Income Taxation

Income derived by residents and non-residents is subject to global and schedular taxation. Under global taxation, real estate rental income, business income, wages and salaries, pension income, and "other income" are aggregated and taxed progressively. Interest and dividends were taxed globally until 1997, but they were temporarily excluded from global taxation until 2000. A combined income of dividend and interest exceeding 40 million won is subject to global taxation. Currently, interests and dividends are subject to withholding tax of 14%. Under schedular taxation, capital gains and retirement income are taxed separately at varying tax rates.

(1) Global income

Global income denotes income subject to global taxation and includes the following: interests, dividends, real estate rental income, business income, wages and salaries, pension income, and other income.

(a) Interest

- i) Interest and discount amounts received during a tax year from debentures and securities issued by a nation's government/its local authorities, or a domestic/foreign corporation
- ii) Interest and discount amounts received during a tax year from deposits and installment savings payable both within and outside Korea
- iii) Interest from non-commercial loans
- iv) Savings-type insurance premiums with a maturity of less than ten years

(b) Dividends

- i) Dividends and distributions of profits and retained earnings, and distribution of interest received from a domestic or foreign corporation during construction
- ii) Distributions of profits received from a non-corporate entity such as private associations or foundations
- iii) Deemed dividends and distributions; See 3.b. (2) ("Dividend Income")
- iv) Amounts designated as dividend by the Corporation Tax Law
- v) Dividend-yielding financial assets

(c) Real estate rental income

- i) Income from leasing land and rights pertaining thereto
- ii) Income from leasing mining and factory foundations, or mining rights

(d) Business income

- i) Profits from livestock, forestry and fishing industries
- ii) Profits from mining and quarrying
- iii) Profits from manufacturing
- iv) Profits from provision of electricity, gas, and water services
- v) Profits from construction business
- vi) Profits from wholesale or retail trade, operation of a hotel, or catering
- vii) Profits from transporting or communications
- viii) Profits from banking, insurance, and real estate dealing
- ix) Profits from real estate business, leasing, and business services
- x) Profits from educational services
- xi) Profits from health and social welfare services
- xii) Profits from social and personal services
- xiii) Profits from household services

(e) Wage and salary income

Class A:

- i) Wage, salary, remuneration, allowance, bonus, and any other allowance of a similar nature received in return for services
- ii) Income, other than retirement income, received due to retirement

Class B:

- i) Wages and salaries received from a foreign agency or from the U.N. Forces in Korea (excluding the U.S. Armed Forces)
- ii) Wages and salaries received from a foreigner or foreign corporation outside Korea, excluding those claimed as a deductible expense for a Korean place of business of a non-resident or a foreign corporation

(f) Pension income

- i) national pension
- ii) government employee pension
- iii) retirement pension
- iv) private pension, as set out in the Special Tax Treatment Control Law

(g) Other income

The term "other income" denotes specifically designated categories of income other than interest, dividends, real estate rental income, business income, wages and salaries, pension income, retirement income, and capital gains. Other income includes the following:

- i) prize money awards and other similar money or goods,
- ii) money or goods received from participation in a lottery, and any other prize won in a contest,
- iii) Money or goods received as a prize in a lottery, drawing, or any other contest, including the purse payable to the buyer of a winning ticket for horse racing, cycle racing, motorboat racing, bull fighting and sports betting game
- iv) fees for use of copyrighted materials received by any person other than the creator of the material,
- v) royalties given as consideration of using films or tapes for radio or television broadcasting, or from such use of other similar assets or rights,
- vi) rent derived from a temporary lease of real estate or personal property, goods, or places, and
- vii) damages or indemnity payments for breach or cancellation of a contract.
- viii) gains from the alienation of mining rights, fishing rights, industrial property rights, industrial information, industrial secrets, trademarks, goodwill (including certain leases of stores), rights derived from the permission to exploit earth, sand, and stone, the right to exploit and use subterranean water, etc.

(2) Schedular income

Retirement income and capital gains are items subject to schedular taxation and thus taxed separately at varying rates.

(a) Retirement income

Class A:

Retirement allowances: retirement allowance from the reserve of the National Pension Fund received by a Class A wage and salary income earner

Class B:

Retirement allowance received by a Class B wage and salary income earner

(b) Capital gains

- i) Gains arising from the transfer of land or buildings
- ii) Gains arising from the transfer of rights related to real estate
- iii) Gains arising from the transfer of shares in a company listed on the Stock Market and the KOSDAQ Market of the Korea Exchange by a large shareholder and the transfer of shares through over-the-counter transactions

* the scope of a large shareholder: ① or ②

① Shareholder or investor and his/her related persons whose combined shares are 3% (5% in the case of shares listed on the KOSDAQ Market) or more of the total shares as of the end of the immediately preceding fiscal year of the year in which transfer of shares takes place.

② Shareholder or investor and his/her related persons whose combined market price of shares are 10 billion won (5 billion won in the case of shares listed on the KOSDAQ Market) or more as of the end of the immediately preceding fiscal year of the year in which transfer of shares take place.

- iv) Gains arising from the transfer of shares in a company not listed on the Stock Market and the KOSDAQ Market of the Korea Exchange

* Gains realized by an individual taxpayer on the transfer of shares in a company listed on the Stock Market and the KOSDAQ Market of the Korea Exchange (excluding those traded at over-the-counter market) are not taxable.

c. Non -Taxable Income

Certain items of income are not subject to income tax. The following categories of income are not taxable.

- (1) Income dedicated to public goods: Profits from property placed in trusts for public welfare

- (2) Rents from certain categories of real estate: Income from the lease of rice fields or dry fields, rental income from specific kinds of houses listed in the Presidential Decree

- (3) Interest, dividend income tax
 - (a) Interest from long term home savings; over seven years and less than 3 million won per quarter
 - (b) Interest from savings account of less than 20 million won with mutual financial institutions of agricultural or fishing associations on condition that the depositor is 20 years or older when opening the account
 - (c) Interest or dividends from savings account of less than 30 million won held by the elderly (60 years or older) or the disabled
 - (d) Dividends from stock of up to 30 million won owned for more than one year by employees or stockholders who are minority stockholders

- (4) Certain categories of business income
 - (a) Profits from a farmer's auxiliary business
 - (i) Profits from raising livestock up to an amount specified by governmental guidelines: Profits earned from livestock kept more than the number specified in the guidelines are taxable. If the actual number of livestock exceeds the number specified in the guideline, that portion of income is taxed.
 - (ii) Profits not exceeding 12 million won per year from other auxiliary businesses, such as fish breeding, straw production, etc.
 - (b) Profits from producing traditional wine: profits derived from producing traditional wine in the rural area (in case the income is

12 million won or less)

(c) Profits from timber to the extent of 6 million won per annum

(5) Wage and salary income and retirement income

- (a) Pay received by certain enlisted men in the armed forces, or persons mobilized under law
- (b) Compensation or other payments made for consolation received by those injured or debilitated while furnishing a service
- (c) Education fees as prescribed by the Presidential Decree
- (d) Unemployment benefit under the employment law, the benefit of childcare leave and the benefit of maternity leave after delivery
- (e) Wages received by persons serving with a foreign government or the U.N., and organizations thereof; in case of a foreign government, the principle of reciprocity is applied
- (f) Wages in the form of an overseas service not exceeding 1 million won per month, 1.5 million won for the crew of deep-sea fishing vessels and ships bound for overseas
- (g) Reimbursement expenses prescribed by the Presidential Decree
- (h) Allowances for night shifts, overtime work, and holiday duty received by blue-collar employees with monthly wages not exceeding one million won

(6) Pension income

- (a) Survivor pension and disability pension under the National Pension Law
- (b) Survivor pension, disability pension, war disablement pension under the Government Employees' Pension Law
- (c) Pension receivable as a result of industrial accidents
- (d) Pension receivable by prisoners of war

(7) Other income

- (a) Awards or compensation received under the National Security Law
- (b) Prizes of money or other property received upon conferment of a

decoration or other public prizes under the law

- (c) Compensation received by an employee from an employer for valuable inventions made in relation to performing his duties

(8) Capital gains

- (a) Capital gains from the disposition of real estate resulting from adjudication of bankruptcy
- (b) Capital gains from exchanges, division, or annexation of farmland by the government and local autonomous bodies or from the exchange of land by the owner for his own cultivation
- (c) Capital gains from the transfer of one house per household, together with the land upon which the house sits (limited to an area of ten times the floor space of the house, or five times the floor space in a designated urban planning district): To obtain this exemption, the house must be held by the seller for more than three years, and the house must not be "luxurious," i.e., not worth more than 600 million won. This exemption is extended to a second house per household in case where a taxpayer acquires a rural house (located in areas other than Seoul, Incheon or Gyeonggi-do) by inheritance, or for the purpose of returning to a farming lifestyle, or due to rural exodus.

d. Tax-Exempt Income

- (1) A taxpayer having any of the following types of income may claim a credit against global taxable income. The amount of credit is calculated by multiplying the tax before exemption by a fraction (the amount of tax computed without application of the credit, multiplied by a fraction (the amount of income described in (a) and (b) below over the total income of the taxpayer)).
 - (a) Wages received by a foreigner working in Korea under a government agreement, paid by either government or by both
 - (b) Income earned from overseas transportation business by non-residents and alien residents, provided that reciprocal tax treatment is granted to Korean taxpayers by the country of residence of the alien taxpayer

(2) Capital gains

(a) Capital gains from the alienation of farmland that has been cultivated for eight years or longer

(b) Capital gains realized by farmers from the transfer of farmland for the purpose of acquiring another parcel of farmland in its place

* Ceiling: up to 100 million won (the sum of exempted amount under (a) and (b)) for 5 years

3. Tax Base and Deductions

a. Basic Rules for Calculating the Tax Base

(1) Substance over form

The provisions governing the calculation of taxable income are applicable based on the actual economic substance rather than upon merely formal distinctions.

(2) Classified calculation

The tax base shall be separately calculated with respect to each class of income earned by the taxpayer, namely, global income, retirement income and capital gains.

(3) Global income tax base

The global income tax base is the amount remaining after deducting personal exemptions from the aggregate of taxable global income, including such items discussed above as interest, dividends, real estate rental income, business income, wage and salary income, pension income, and other income.

(4) Non-inclusion in global income

The following items of income are not included in global income but are either assessed separately or are non-taxable:

(a) Non-taxable income,

- (b) Wages of daily workers,
- (c) Interest income subject to separate taxation that is eligible for withholding rates (See, 7. a. (1) (a) "Interest income"),
- (d) Interest income and dividend income less than 40 million won,
- (e) Income categorized as other income, up to 3 million won per year, and
- (f) Pension income up to 6 million won per year.

(5) **Schedular taxation**

Retirement income or capital gains are subject to schedular taxation as independent income categories.

(6) **Taxable year to which gross income is attributable**

Gross income is attributed to the taxable year in which it is settled. The time for attributing amounts of global income to global receipts is shown below.

- (a) Interest: the date payment is received
- (b) Dividends:
 - i) Dividends on bearer shares: the date payment is received
 - ii) Dividends made under the disposal of surplus: the date on which a resolution on appropriation of surplus is made by the company concerned
 - iii) Deemed distribution: the date of decision of redemption of stocks, the date of decision on the decrease of capital or transfer into capital, or the date of the registration of merger or of final determination of the value of residual assets, or the date of receiving consideration
 - iv) An amount appropriated as dividend by the Corporation Tax Law: the date on which accounts are settled
- (c) Rent from real estate: the date stipulated in the contract or the date of payment if the contract does not exist
- (d) Business income
 - i) Sales of merchandise or products: the date of delivery or of the

products reaching a deliverable state

- ii) Consignment sales of merchandise or products: the date of sale by the consignee
 - iii) Sales of merchandise or products on a long-term installment or deferred payment basis: the date of delivery, subject to the matching principle in case of expenses being incurred after the sale
 - iv) Performance of personal services: the date of completion of services
 - v) Sales or transfers of other assets: the date the consideration is received, or, if earlier, the date of registration or delivery
- (e) Wage and salary income:
- i) Ordinary wage and salary income: the date of services provided
 - ii) Bonuses given as a result of an appropriation of surplus: the date of the resolution by the Board of Directors to disposal of the surplus
 - iii) An amount regarded upon as bonus by the tax authorities under the Corporation Tax Law: the date of furnishing services in the relevant business year of the corporation
- (f) Retirement income: the date of termination of employment
- (g) Capital gains: the date of receiving the consideration giving rise to the gain
- (h) Other income: the date of receipt

(7) Taxable period:

- (a) General rule: individual taxpayers use the calendar year as tax year; January 1 through December 31
- (b) January 1 through the date of death, in case of a resident's death
- (c) January 1 through the date of departure from the country, in case of a resident who becomes a non-resident

b. Calculation of Taxable Income

Taxable income is computed as the sum of the following items of income:

- (1) Interest: amount of income as determined above
- (2) Dividends
 - (a) Dividend income actually distributed to the amount of income as determined above
 - (b) Deemed distribution
 - i) The value of stocks or investments acquired by transferring surplus or reserves into capital, except the following:
 - transferring gains on retirement of treasury stock into capital more than 2 years after the retirement
 - transferring asset revaluation reserve into capital (in case of a listed corporation)
 - ii) The amount in excess of the investment received by an investor through the liquidation of a corporation or through a reduction of capital
 - iii) The amount received by an investor upon the merger or consolidation of a corporation more than his investment
 - iv) The value of stock dividends or additional investment interests acquired by an investor as a result of another investor renouncing his preemptive right to acquire an allocated portion of stock or investment interest following a capital increase of a corporation
- (3) Rents from real estate
 - (a) Taxable income: the total amount of income in each taxable period remaining after the deduction from gross receipts of allowable expenses and losses carried-over within 5 years
 - (b) Gross receipts:
 - i) Total revenue arising from the lease of real estate
 - ii) If a resident who leases real estate or the title thereto receives a deposit, key deposit, or an amount of a similar nature (an amount calculated as provided by the Presidential Decree shall be counted in gross receipts)
 - (c) Necessary expenses:

Aggregate of expenses required to produce the total amount of

income earned during the taxable period

(4) Business income

The total amount of income in each taxable period remaining after deduction from gross profits of allowable expenses and losses carried-over from the previous 5 years

(5) Wage and salary income

The total amount of income remaining after the deduction as specified in the table below: used to calculate the tax base for wage and salary income after the deduction described herein has been made for that taxable period

Deduction for wage and salary income (80,000 won per day for a daily worker), as computed in the table below.

Wages and salary income	Deductions
Not more than 5 million won	Wages and salary income amount in full
5 million won - 15 million won	5 million won + 50% of salary exceeding 5 million
15 million won - 30 million won	10 million won + 15% of salary exceeding 15 million won
30 million won - 45 million won	12.25 million won + 10% of salary exceeding 30 million won
More than 45 million won	13.75 million won + 5% of salary exceeding 45 million won

(6) Pension Income

The total amount of income remaining after the deduction as specified in the table below with the deduction ceiling of 9 million won

Pension income	Deductions
Not more than 3.5 million won	Pension income amount in full
3.5 million Won - 7 million won	3.5 million won +40% of pension exceeding 3.5 million won
7 million Won - 14 million won	4.9 million won + 20% of pension exceeding 7 million won

More than 14 million won	6.3 million won + 10% of pension exceeding 14 million won
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(7) Retirement income

The total amount of income remaining after the deductions in the following order:

- (a) 45 % of retirement allowance;
- (b) Amount determined based on the length of service

Service years	Deductions
Less than 5 years	300,000 won per year
5-10 years	1,500,000 + 500,000 X (service year- 5)
10-20 years	4,000,000 + 800,000 X (service year -10)
More than 20 years	12,000,000 + 1,200,000 X (service year- 20)

(8) Capital gains

Gains arising from the transfer of land, buildings, or rights thereon, stocks, and other assets specifically enumerated in the Income Tax Law shall be taxed separately from global income. This separation was created to stabilize real estate prices and for tax purposes.

Capital gains may be classified into the following three categories:

- (a) Gains arising from the transfer of land, buildings.
- (b) Gains arising from the transfer of rights to real estate such as surface rights, leaseholds, or rights to acquire real estate; or
- (c) Gains arising from the transfer of stocks

Gains on transfer and the amount of capital gains are calculated as follows:

$$\text{Gains on transfer} = \text{Selling price} - \text{Necessary expenses}$$

$$\text{Amount of capital gains} = \text{Gains on transfer} - \text{Special deduction for long-term possession of land and buildings} - \text{Capital gains deduction}$$

Necessary expenses include acquisition costs, costs of installations or improvements, and other capital expenditures.

Special deductions for long-term holding of land or building are calculated as follows:

- 10% of the capital gains if the holding period is three years or longer and shorter than five years;

- 15% of the capital gains if the holding period is five years or longer and shorter than ten years;

- 30% of the capital gains if the holding period is ten years or longer (45% of the capital gains in relation to a house held for 15 years or longer by a household owning no other house).

A capital gains deduction of 2.5 million won per year is given without regard to the amount. However, special deduction for long-term holding or capital gain deduction is not allowed for unregistered real estate.

(9) Other income

The aggregate amount of income of this category less necessary expenses; remuneration from an independent lecture allows a deduction of 80% thereof as necessary expenses

c. Calculation of Business Income

- (1) Taxable business income is the aggregate amount of income in each taxable period remaining after the deduction from gross receipts of necessary expenses and losses carried-over from the previous 5 tax years.

- (2) Gross receipts
 - (a) Gross receipts of a business are the aggregate of money or property receivable in connection with the activities of a business in the tax year.
 - i) If anything other than money is received, the income amount

is calculated as the monetary value thereof prevailing at the time of transaction.

- ii) The value of returned goods and a discount on sales is offset in the calculation of gross receipts for the year.
- iii) Sales discounts in case of early settlement of an account receivables are deducted from gross receipts
- iv) Bounties and other similar sums received from sellers are included in gross receipt.
- v) If tax amounts counted in necessary expenses are refunded, the amount of refund is included in gross receipts.
- vi) A decreased amount of liabilities due to exemption or the lapse of a liability is accounted for as gross receipts; however, such an amount used for keeping carried-over deficits in balance are not counted in gross receipts.
- vii) Such other amounts of receipts related to the business as have been reverted or are to be reverted to the businessperson in question are counted in gross receipts.

(b) Non-inclusion in gross receipts:

The following items are not covered in gross receipts:

- i) amount of income tax or inhabitant tax refunded or to be refunded, used for the payment of other tax amounts
- ii) value of assets received without compensation and amount of decrease in liabilities due to exemption or lapse of debts, used for balancing carried-over deficits,
- iii) value of products used by businesses: self-produced raw materials or fuels,
- iv) amount of indirect taxes, such as the Value Added Tax, collected from customers to be turned over to the tax authorities, and
- v) interest on the refund of overpayments of national taxes or local taxes.

(3) Necessary expenses

- (a) Necessary expenses are the aggregate of expenses incurred in

relation to the accrual of gross receipts for each taxable period and include the following:

- i) purchase price of raw materials or goods corresponding to products or goods sold for the year concerned/ Discounts on purchases and purchase discounts are deducted from purchase price.
- ii) book value of transferred assets at the time of the transaction (in the case of a real estate sales business),
- iii) salaries and wages,
- iv) cost of repairing business assets, including management and maintenance expenses,
- v) depreciation of fixed assets of the business,
- vi) rent of business assets,
- vii) interest on borrowings,
- viii) bad debts (including VAT thereon),
- ix) loss on revaluation of assets,
- x) mine exploration expenses including development costs,
- xi) advertisement expenses and sales promotion expenses,
- xii) public contributions, designated donations and entertainment expenses within the prescribed limit, and
- xiii) deferred expenses such as start-up costs or experimental and research expenses counted in necessary expenses.

(b) Tax free reserve

Contributions to the following reserves are considered necessary expenses, within the prescribed limits.

- i) Reserves for retirement of up to 10% of total wages paid to employees who have served for one year or more: the accumulated amount of the reserve is limited to 40% of the estimated retirement allowances payable to all employees at the closing date of the year
- ii) Reserves for bad debts up to an amount equal to 1% of aggregate sales on credit or accounts receivable and VAT thereon, as of the closing date of the respective year: the amount remaining after offsetting the actual bad debts is

included in the gross receipts in the following year

(c) The following amounts are treated as necessary expenses in the calculation of income for the year.

- i) Gains on insurance claims of a resident used for acquisition of the same kinds of fixed assets as the lost or broken fixed assets, and those used for improvement of the acquired fixed assets or the damaged fixed assets (must be within 2 years from the beginning day or the year following the year in which the gains fall)
- ii) Amount of subsidy actually used for acquisition or improvement of fixed assets

(d) Non-inclusion of necessary expenses

The following losses and expenses are not counted as necessary expenses in the calculation of the income of a resident.

- i) Income tax (including foreign income taxes), inhabitant tax, and tax paid or payable as a result of delinquency in the payment of tax owed (including penalty taxes thereof)
- ii) Fines, minor fines, penalty taxes, and expenses for disposition of taxes in arrears
- iii) Public imposts, other than those which a taxpayer has an obligation to pay under the law
- iv) Losses from revaluation of assets other than inventory or short-term investment assets
- v) Expenses deemed by the government not to have any direct connection to the business
- vi) Unpaid amounts of liquor tax or other excise taxes on inspected or carried out products not yet sold
- vii) Interest on borrowing incurred by a resident and used to fund construction, and interest on private loans of which the sources are unknown
- viii) Depreciation amount of the fixed assets allocated for each year, exceeding the amount allowed as necessary expenses
- ix) Household expenses and prepaid expenses

x) Value added tax paid on inputs

(e) Non-inclusion in necessary expenses of designated donation

If a taxpayer makes donations other than that designated below, or makes donations in excess of 10% of the taxable income (excluding public contributions and carried-over loss), the amount is not treated as a necessary expense (the amount in excess of such a limit may be carried over for 3 years).

- i) Donations to public interest entities, social welfare organizations, and religious organizations
- ii) Donations and scholarships for academic research, technical development, and athletic skill development
- iii) Other donations to public entities prescribed by the Presidential Decree

<Reference: Income Tax Law 34 ①>

The coverage of designated donation has been revised.

- i) In the case of donation to religious organizations: 10% + (the lesser amount of 10% or the donation to organizations other than religious groups)
- ii) In the case of no donation to religious organizations: 10%

The following contributions are always treated as necessary expenses in computing taxable income (but may not be carried over).

- i) Value of money and goods donated to government agencies and local governmental bodies without compensation
- ii) Contributions for national defense and war relief
- iii) Value of money and goods donated for the relief of victims of calamities

(f) Non-inclusion in necessary expenses of entertainment expenses

- i) If a taxpayer's entertainment expenses exceed the aggregate sum of the following amounts, the amount in excess thereof is not to be counted as a necessary expense. (Note: Entertainment expenses are allowed only when supported by recognizable regular invoices such as credit card invoices if the one-time expenditure is over 50,000 won.)

- an amount calculated by multiplying 12 million won (18 million won in the case of a small or medium size enterprise) by the number of months in the respective tax period, divided by 12
- an amount calculated by multiplying the total amount of revenue for the business year by the rates listed in the table below

Revenue amount	Rates
10 billion won or less	0.2%
Over 10 billion won but not more than 50 billion won	20 million won + 0.1% in excess of 10 billion won
More than 50 billion won	60 million won + 0.03% in excess of 50 billion won

(g) In the case of transactions between related persons which result in an unreasonable reduction of the tax burden, the government may adjust the income amount for each year of said taxpayer, regardless of activities or calculation of the taxpayer.

(4) Depreciation

Depreciation cost is calculated as necessary expenses in computing income, and is determined in accordance with the useful life of fixed assets.

(a) Methods of calculating depreciation

Depreciation of fixed assets is calculated according to the following methods.

- i) Fixed percentage method or straight-line method for tangible fixed assets (only the straight-line method may be used for buildings, but either method may be chosen for machinery and equipment)
- ii) Straight-line method used for intangible fixed assets
- iii) Unit of production method or straight line method for mining

rights: Under the unit of production method, the actual output extracted in a tax year is compared to the estimated total amount to have been extracted, and the ratio is applied to the book value of the mineral rights to determine the size of the depreciation deduction allowed. (Note: the Korean language uses one word to describe "depreciation," "amortization," and "depletion.")

- iv) Unit of production method, fixed percentage method, or straight line method for tangible fixed assets used in mining

(b) Acquisition value of fixed assets

- i) In case of fixed assets purchased, it is the price quoted at the time of purchase (including registration tax, acquisition tax, and other incidental costs, but not Value Added Tax).
- ii) In case of fixed assets acquired by means of one's own construction, fabrication, etc., it is the aggregate costs of raw materials, labor, freight, loading and unloading cost, insurance premiums, fees, public imposts (including registration tax and acquisition tax), installation expenses, and other incidental costs.
- iii) In the case of fixed assets other than those referred to in i) and ii), it is the normal price quoted at the time of acquisition.

(c) Useful life and depreciation rate

Refer to the chapter covering the corporation tax law.

(d) Residual value

The residual value of a fixed asset is zero, but becomes 5% of the acquisition value in case of depreciation when using the fixed percentage method. This amount is claimed as an expense in the final year of depreciation.

(e) Revenue expenditures and capital expenditures

- i) Repairing expenses disbursed by a taxpayer either to restore his assets to their original state or to maintain their efficiency are regarded as revenue expenditures.
- ii) Repairing expenditures spent either to extend the useful life or to increase the actual value of fixed assets are regarded as capital expenditures.

(5) Accounting for inventory

- (a) A taxpayer may select one of the following methods of inventory accounting. The accounting method utilized for filing the tax return shall be reported by the due date for the year in which the business is begun.
 - i) Cost method
 - ii) Lower of the cost or the market method
- (b) If the cost method is applied, one of the following conventions must be used.
 - i) Specific identification method
 - ii) First-in, first-out ("FIFO") method
 - iii) Last-in, first-out ("LIFO") method
 - iv) Weighted average cost method
 - v) Moving average cost method
 - vi) Cost of sales rebate method
- (c) Different accounting methods may be applied to the various assets by category and place of business, in accordance with the following classes of assets.
 - i) Products and merchandise
 - ii) Semi-finished goods and work in process
 - iii) Raw materials
 - iv) Goods in stock
- (d) In any of the following cases, the head of a tax office may value inventory assets according to the FIFO method (weighted average cost method in case of securities, specific identification method in case of real estate held for sale).
 - i) A taxpayer fails to report his method of accounting for inventory within the time required.
 - ii) A taxpayer accounts for inventory using a method other than that reported.
 - iii) A taxpayer changes the accounting method used for inventory without filing a report of such change.

d. Exemptions and Deductions Related to Global Income

There are five exemptions or deductions related to global income.

(1) Basic Exemptions

Residents with global income are entitled to annually deduct an amount equivalent to 1 million won multiplied by the number of persons in the taxpayer's family, as determined below.

- (a) A resident taxpayer
- (b) A spouse with annual income of less than 1 million won
- (c) Dependents with annual income of less than 1 million won living in the same household with the taxpayer

* A dependent is a lineal ascendant aged sixty or older (fifty-five for females), a lineal descendent of the resident aged twenty or less (there is no age restriction for a disabled person), a sibling aged under twenty or over sixty, and all other members of the household supported by the resident.

(2) Additional Exemptions

A resident eligible for basic exemption and who belongs to any of the following classes may also deduct 1 million won (a: 1.5 mil. won per year for those 70 years of age or older, b: 2 million won, c: 500,000 won, e: 2 million won) per year from his/her global income:

- (a) A person who is 65 years or older,
- (b) The disabled, as prescribed by the Presidential Decree or
- (c) A female head of family with dependents or with a spouse
- (d) Anyone with a lineal descendant not more than 6 years of age.
- (e) Lineal descendants and adopted children with adoption reported during the concerned taxable year

(3) Extra Exemptions for households with many dependent children

A resident with wage and salary income or business income who has two or more dependent children eligible for basic exemption may deduct 500,000 won plus additional 1 million won per every child added to the first two children from his/her global income (e.g. 2 children: 500,000 won, 3 children: 1.5 million won, 4 children: 2.5 million won...).

(4) Special Deductions

Wage and salary income earners may deduct an amount equal to the sum of the following from their wage and salary income, during the taxable year.

- (a) Insurance premiums paid, up to 1 million won: This limit does not apply to amounts paid for medical care insurance.
- (b) Insurance premiums of insurance exclusively offered for disabled persons, up to 1 million won
- (c) Medical expenses incurred exceeding 3% of wage and salary income, up to 5 million won: The deduction ceiling does not apply to expenses paid for the rehabilitation of taxpayers themselves, disabled dependents and senior citizens.
- (d) Domestically incurred educational expenses of an employed

taxpayer including the expense incurred in association with expenses paid by the taxpayer for his spouse or lineal descendants eligible for (1) Basic Exemptions. While the educational expense incurred for the taxpayer himself (including expense for graduate school) is deductible in full, that for his/her spouse or lineal descendants is deductible with the following ceilings: 2 million won annually per children for expenses for kindergarten, nursery school and sports facilities which preschoolers use for lesson purpose, 2 million won annually per student for elementary-, junior-and- high school expenses including school meals and after-class fees, and 7 million won annually per person for college education expenses.

Education expenses incurred overseas for the taxpayer himself may be deducted in full as well. Educational expenses incurred overseas by spouse or lineal descendants are eligible for deduction, subject to the following limits (annually, per student): 2 million won for kindergarten, 2 million won for elementary, junior, and high schools, and 7 million won for college.

- (e) Special education cost for the disabled: No ceiling
- (f) 40% of deposits of an account earmarked for purchasing a house, which is held by a person who does not own a house during the year concerned or a person who, at the time of

opening such account, owns only one house that is smaller than 85 square miles in size and whose government-evaluated price is 300 million won or less

- (g) 40% of repayments of loans (including interest accrued thereon) (for a total of up to three million won per year) borrowed for the purpose of the lease of a house of an appropriate size by a person owning no house who is subscribed to a qualifying savings program for home ownership
- (h) Interest up to 10 million won per year of a mortgage loan with the duration of more than 15 years
- (i) Deduction for donations; amounts donated to qualified institutions, up to 10% of the taxpayer's salary and wage income for the year: This limit of deduction does not apply to the donations to specific welfare facilities

(5) Standard Deductions

Alternatively, a taxpayer may elect to choose an annual standard deduction of 600,000 won (1 million won for wage and salary earners and business owners meeting certain requirements and), if he or she fails to claim deductions in question or accrues only global income without any wages or salaries earned.

d. Scope of Persons Eligible for Personal Exemptions and Determination of Eligibility

Persons eligible for spousal exemption, dependent exemption, or exemption for disabled or aged persons must be (i) a spouse and/or unmarried lineal descendant and (ii) family members who are listed on the registration card of the resident actually living at the domicile or residence. A person who has temporarily left the taxpayer's domicile or residence for reasons of schooling, medical treatment, business, or work may still be entitled to an exemption. The determination of eligibility shall be made based on the existing conditions at the closing date of the tax period concerned.

4. Tax Rates and Credits

a. Tax Rates

(1) The amount of income tax on global income is calculated by applying increasing marginal tax rates to respective tax base, and may be determined by using the following table.

(2) Table of Basic Tax Rates

Tax Base of Global Income	Tax Rates
12 million won or less	8% of tax base
12 million won - 46 million won	0.96 million won + 17% of the amount exceeding 12 million won
46 million won – 88 million won	6.74 million won + 26% of the amount exceeding 46 million won
Over 80 million won	17.66 million won + 35% of the amount exceeding 88 million won

(3) The tax amount of retirement income is calculated by dividing the taxable income by the number of years of service, applying the tax rates, and again multiplying the amount by the number of years of service.

(4) Tax rates on capital gains are as follows.

(a) Real estate and rights thereto

○ Property held for at least 2 years

Capital gains (Tax base)	Tax rates
Not more than 10 million won	9%
12 million won ~ 46 million won	900,000 won + 18% X the excess over 10 million won
46 million won ~ 88 million won	6.3 million won + 27% X the excess over 40 million won

More than 88 million won	17.1 million won + 36% X the excess over 80 million won
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- Property held for at least 1 year and less than 2 years: 40%
- Property held for less than 1 year: 50%
- In case a household holds three or more houses meeting one of the following criteria as prescribed by the Presidential Decree, the rate of 60 % applies:

① A house located within the Seoul metropolitan area or other metropolitan areas

② A house which is located in areas other than the Seoul metropolitan area or other metropolitan areas and whose government-evaluated price exceeds 300 million won at the time of the transfer

* A house which is 18 pyeong or less in size and a house whose government-evaluated price is 40 million won or less are excluded from the application of the capital gains tax rate of 60%.

○ In case a household owns two houses as provided by the Presidential Decree (a house located in the Seoul metropolitan area or other metropolitan areas or houses located in other provinces whose government-evaluated price exceeds 300 million won): 50% (effective from 2007)

* Houses located in the Seoul metropolitan area or other metropolitan areas whose government-evaluated price is 100 million won or less are excluded from the application of the capital gains tax rate of 50%.

○ Land used for non- business or non-residential purposes: 60% (effective from 2007)

○ Unregistered transferred property: 70%

(b) Stocks

Capital gains	Tax rates
1) Shares of non-small and medium sized company which are held by large shareholders for less than one year	30 %
2) Shares of small and medium sized company	10 %
3) Shares other than 1) and 2)	20 %

- (5) Foreign employees and executives may elect to apply the rate of 17% on their salaries (schedular taxation) or have 30% of their income tax-exempt.

b. Tax Credits

(1) Tax credit for dividend income

Where dividend income of a resident received from a domestic corporation is included in global income, the amount calculated as below is deducted from the global income tax amount.

- (a) 15/100 of the dividend income is added to the amount of dividend actually received by the shareholder.
- (b) This figure is used in calculating the individual income tax amount of the shareholder.
- (c) Thereafter, the amount (15/100 of the dividend income) added to the amount of dividend calculated in (a) above, is credited against the individual income tax amount calculated in (b) above.

(2) Foreign tax credit

Where a resident has paid or is to pay income tax in a foreign country, the tax amount paid or payable is deducted from the amount of Korean income tax accrued with a limit. This limit is an amount equivalent to that of the income tax owed without the application of this

credit, multiplied by the ratio of income from foreign sources to total taxable income. If the foreign tax amount paid or payable exceeds this limit, the excess portion may be carried over for 5 years.

(3) Tax credit for casualty loss

When a resident loses 30% or more of the total value of his business assets from one or more disasters, an amount equal to the tax due without application of this credit times the ratio of the value of the lost assets over the total value of assets owned prior to a disaster is subtracted from the amount of tax due in the year of the disaster(s).(limited to the value of loss caused by casualty)

(4) Special tax credit for wage and salary income

The credit amount available for wage and salary income earners shall be calculated as the following table shows. (The credit shall be limited to 500,000 won per year against global income)

Tax Base	Tax Rates
Not more than 500,000	55% of a global tax amount
More than 500,000	225,000 + 30% of an amount in excess of 500,000

c. Special Case in Calculation of Tax Amount

When the amount of interest or dividend income included in the global income tax of a resident exceeds the amount set forth in the guideline as to global taxation (40 million won per year), the amount of tax on global income shall be the larger of the two shown below.

(1) The sum of the following:

- (a) The amount of global income tax calculated on the sum of:
 - the amount by which interest and dividend income exceeds 40

million won, and

- the amount of global income other than interest or dividend income.

(b) 6 million won, the amount of tax calculated by applying a withholding tax rate of 14% to 40 million won

(2) The sum of the following:

(a) 14% of the total interest and dividend income, and

(b) the amount of tax computed on global income other than interest or dividend income.

5. Tax Returns and Payment

a. General

Under the 1994 tax reform, the individual income tax assessment system was converted into a self-assessment system under which each taxpayer is required to file a return and pay the proper amount of tax by the due date as prescribed by the individual income tax law.

b. Interim Prepayment for Global Income

(1) A resident with global income is subject to interim prepayment of global income tax for interim prepayment periods (from January 1 through June 30) in the amount equivalent to half of the global income tax amount paid or payable in the preceding year, by the end of November.

(2) The "income tax paid or payable in the preceding year" is the aggregate of the tax amount payable for interim prepayment in the preceding year, the tax amount payable upon filing of the return, together with penalty taxes owed.

c. Pre>Returns and Estimated Payment of a Real Estate Dealer

(1) A real estate dealer is required to file a return to report any taxable profit from the sale of land or buildings within two months from the end of the month that the profit was incurred. The real estate dealer should include the payment with the filed return, calculated by applying the

basic tax rates on capital gains to the taxable profit as income tax from a real estate dealing business. A 10% tax credit is allowed if payments together with the return are properly made.

- (2) The taxable profit is calculated by deducting necessary expenses incidental to the sale of land or buildings.

d. Pre>Returns and Estimated Payment for Capital Gains

- (1) A resident who transfers assets subject to the capital gains tax is required to file a return and pay the tax due on the capital gains within two months from the month of transfer.
- (2) The amount of tax payable at the time of the interim return is calculated by applying the basic tax rates on capital gains to the profit derived from the transfer. If the tax return including the payment is properly made, 10% of tax credit is allowed from the tax due.

e. Final Returns and Payment

- (1) Return on tax base

A resident who has global income, retirement income or capital gains, during the applicable taxable period is required to file a return on the respective tax base between May 1 and May 31 of the following year.

- (2) Documentation

Tax returns should include the following documents:

- (a) supporting documents in order to be eligible for personal exemptions and special deductions,
- (b) documents in which gross receipts and necessary expenses are recorded together with statements of income amount in the form prescribed by the Ministerial Decrees,
- (c) for those having rental income or business income, a balance sheet, a profit and loss statement, a compound trial balance, and a reconciliation format, or a summary of income statement, and
- (d) particulars of tax free reserves.

(3) Residents not required to submit a final return

The following residents are not required to submit final returns. However, a resident who has Class B wage and salary income and/or retirement income is not excluded hereunder:

- (a) A resident who has only:
 - i) wage and salary income,
 - ii) retirement income, or
 - iii) pension income
 - iv) a combination of both i) and ii) or both ii) and iii)
- (b) A resident with only capital gains and one who has filed a preliminary return thereon
- (c) A resident with only:
 - i) interest income subject to separate taxation,
 - ii) dividend income subject to separate taxation, and
 - iii) separate taxation on pension income
 - iv) other income subject to separate taxation.
- (d) A resident with only the types of income enumerated in (a), (b), and (c).

(4) Payment of tax

- (a) A resident who has submitted a tax return shall pay any amount remaining after deducting the following items from the amount calculated as tax due on global income, retirement income, or capital gains for each taxable period.
 - i) Interim prepayment of tax
 - ii) Estimated taxes paid by real estate dealers, or with respect to capital gains
 - iii) Additional taxes paid as a result of occasional assessments of tax
 - iv) Taxes withheld at source
 - v) Taxes paid through a taxpayers association
- (b) A resident whose taxable amount exceeds 10 million won may

pay the tax accrued in installments within 45 days from the closing date of the payment period.

- i) In case of tax due less than 20 million won, the amount more than 10 million won can be paid in the extended period of payment.
- ii) In case of tax due of more than 20 million won, 50% or less of the amount of tax can be paid in the extended period of payment.

f. Taxpayer Associations

(1) Organization

Class B wage and salary income earners, meat sellers, grain dealers, and vendors may organize taxpayer associations through which they may pay taxes.

(2) Obligation to collect tax

A taxpayer association shall collect income tax from the members each month.

(3) Payment of tax

Income tax for each month collected by a taxpayer association will be paid to the government by the 10th day of the following month.

(4) Tax credit for payment of tax by taxpayer association: 10%

(5) Penalty tax for non-payment of tax by taxpayer association: 5%

g. Taxpayer Address

A domicile or a residence of a taxpayer is the tax address for the purpose of income tax.

6. Tax Assessment and Collection

a. Determination of Tax Base and Tax Amount

(1) The income tax is to be self-assessed and filed by the taxpayer.

(2) The government will correct the tax base and the tax amount if there are any omissions or errors in the return filed, or if the taxpayer has not submitted the payment statements or the aggregate summary of

accounting statements in whole or in part.

(3) In cases where the government determines or corrects the tax base and the tax amount payable by a taxpayer, the tax base and the tax amount must be determined or corrected according to the law based on the final return and the attachments thereto, or by a field audit.

(4) Determination must be completed within a year from the filing due date, except that the Commissioner allows an extension of time for special investigation, or approves a late determination based on extenuating circumstances.

(5) Occasional assessment

To prevent income tax evasion, the government may, monthly or occasionally, determine a tax base prior to the filing or determination period in the following circumstances:

- (a) when a taxpayer frequently moves his business place, domicile, or residence without reporting such movements to the government;
- (b) when a taxpayer has closed down or has suspended his business operation due to poor business conditions or other reasons; and
- (c) when a taxpayer is located in an area deemed to be a place of frequent moves for place of business, residence, or domicile.

b. Minimum Taxable Floor

If the amount of income tax payable is less than the following amount, income tax will not be assessed.

- (1) Withholding tax (excluding tax of interest income) : 1,000 won
- (2) Interim prepayment tax: 200,000 won

c. Notice on Tax Base and Tax Payable

If the government determines or adjusts a tax base or a tax amount, the government shall notify the concerned resident the tax rates and/or any other necessary matter in writing.

d. Collection of Tax

- (1) If a taxpayer does not pay the full tax amount for the year in question, the government will endeavor to collect the unpaid tax amount within three months after the due date of payment.
- (2) When the income tax amount paid by the taxpayer is less than that determined by the government, the unpaid amount of tax will be collected.

7. Withholding Tax

a. Tax Withholding Obligation

A person paying interest, dividends, business income prescribed by the Presidential Decree, Class A wage and salary income, pension income, retirement income, or other income is required to withhold income tax due thereon at the time of such payment, and to pay it to the government by the tenth day of the following month.

However, a businessman who has less than ten employees on average at the end of every month of the preceding year may pay taxes withheld to the government by the tenth day of the following month each half-year, after obtaining the approval of the head of the tax office concerned.

Rates of Withholding

- (1) Interest income
 - (a) Interest on a long-term saving with a redemption period of 5 years or longer and interest on a long-term bond with a redemption period of 10 years: 30%
 - (b) Interest from non-commercial loans: 25%
 - (c) Other interest: 14%
- (2) Dividend income: 14%
- (3) Business income from personal services and medical or health services which are exempt from VAT: 3% of total revenue (in the case of pharmacies, 3% * (total income from drug dispensing service less cost of medicine))

- (4) Class A wage and salary
 - (a) Tax rates: the basic tax rates applicable to global income
 - (b) Simplified tax table: If wage or salary is paid monthly, the tax amount to be withheld is calculated by the "Simplified Tax Table" attached to the end of the Income Tax Law.
 - (c) Year-end adjustment: A person subject to tax withholding must calculate the total annual tax amount in January of the following year or at the time of the last payment of income in the year (i.e., when the income earner completes employment during the year) and collect or refund the difference between the tax amount payable. This amount is calculated by applying the basic tax rates and the tax amount withheld, which is explained in the "Simplified Tax Table."
 - (d) Application for personal exemption: Class A wage and salary income earners who are entitled to personal exemptions must submit an application for personal exemptions, together with documentary evidence in support thereof, to the withholding agent before receiving wage and salary income for February of the following year.
 - (e) Daily wage: Tax is withheld from the wages of daily workers at a rate of 8 %.

- (5) Pension income:
 - i) national pension, government employee pension: basic tax rates (identical to labor income tax)
 - ii) retirement pension, private pension: 5%

- (6) Class A retirement income: basic tax rates

- (7) Other income is withheld at the rate of 20%.

8. Penalty Tax

In case of failure to comply with obligations by the tax laws, penalties are imposed as follows:

a. Penalty Tax for Failure to File Returns

If a resident either fails to file a tax return or under-reports the relevant income, an amount equivalent to 20% of the income unreported or under-reported will be included in the calculation of tax amount as follows: (The penalty tax is not imposed on new business owners and business with less than 48 million won revenue per year.)

$$\frac{\text{Income amount unreported or under-reported}}{\text{Income amount to be properly reported}} \times \text{tax amount properly calculated} \times 20\%$$

b. Penalty Tax for Non-Payment or Underpayment of Tax

- (1) When the income tax payable with the final return has not been paid in full, a penalty in the amount of 0.03% of the amount unpaid shall be added to the amount of tax due, for each day the amount remains unpaid.
- (2) When a taxpayers association fails to fully pay the income tax due within the time required, a penalty of 5% of the unpaid amount shall be added to the amount of tax due. When tax is not paid in full, penalty will amount to 0.03% of the unpaid amount per day.

c. Penalty Tax for Failure to Withhold Tax

If a person subject to tax withholding fails to withhold tax at source or fails to pay the government tax withheld within the payment period, the greater of (1) or (2) is levied as penalty: (the greater amount of (1) or (2) will be imposed with the limit of unpaid tax liability or the one tenth of underpaid tax liability)

- (1) 0.03% X the amount unpaid X number of unpaid days (to the extent of 10% of unpaid tax); or
- (2) 5% of unpaid tax

d. Penalty Tax for Failure to Report Withholding Invoices

- (1) If a concerned person fails to submit a payment report within the reporting period or if the reported facts concerning payment are found to be unclear as specified by the Presidential Decree, a penalty in the

amount of 2% of the payment due shall be charged.

- (2) If a concerned person fails to issue or submit a proper tax invoice regarding the transaction involved, a penalty in the amount of 1% of the transaction shall be charged.

e. Penalty Tax Related to Gathering Relevant Tax Invoices

- (1) If a taxpayer has an obligation to keep double entry books but fails to keep available invoices in the form that is generally accepted (including credit card receipts) as supporting evidence for the payment of goods received and services rendered, a penalty may be imposed in the amount of 2% of the total value of such unsupported transactions. The penalty may be applied even if the expense deduction is sufficiently substantiated to be allowed.
- (2) If a taxpayer who has an obligation to keep double entry books does not submit a list of invoices to the tax office, a penalty tax amounting to 1% of the unreported amount shall be charged.

f. Penalty Tax for Failure to Maintain Adequate Books and Records

If a taxpayer operating a business fails to maintain proper books and records, such taxpayer will be subject to penalty equal to 20% of the amount of tax due for the tax year involved multiplied by the following rate "R."

$$R = \frac{\text{improperly documented portion of taxable income}}{\text{total taxable income}}$$

g. Penalty Tax for Failure to Report Details of Place of Business

In case where a taxpayer engaged in medical, veterinary, or pharmaceutical service business fails to report detailed information on their place of business such as his/her personal information, revenue amount, and facilities, or underreports revenue amount when reporting such information, there shall be added to the tax due a penalty equal to 0.5% of the amount unreported.

h. Penalty Tax for Failure to Submit Schedule of Summary of Tax Invoices by

Supplier

Where a taxpayer who is required to adopt the double-entry system of recording transactions fails to submit a schedule of summary of tax invoices by supplier, there shall be added to the tax due a penalty equal to 1% of the value of supply concerned.

9. Bookkeeping, Reporting and Other Obligation

a. Bookkeeping

A taxpayer conducting a business shall maintain books and records adequate to support the computation of the amount of taxable income. Such books and records shall be of sufficient detail to allow an inspector to understand the relevant facts of all transactions conducted by the business.

In particular, those taxpayers engaged in professional service business (e.g. legal service, medical service, dental care service, veterinary service, etc.) are required to adopt the double-entry system regardless of the size of their income.

b. Reporting

(1) Payment reports

Persons who pay the following must submit to the government a report by the end of February of the year following the year in which the payments are made.

- (a) Interest
- (b) Dividends
- (c) Amount withheld from a business
- (d) Wages, salaries, and severance pay
- (e) Pension income
- (f) Other amounts representing income to the recipient

(2) Submitting payment reports

Under the system of global taxation of financial income, persons

required to withhold tax must supply information regarding the income subject to withholding by the end of February of the year following the year in which the payments were made.

c. Registration as cash receipt issuer

Business owners with annual income of 24 million won or more who do transactions directly with consumers (in the case of professional service providers, the income threshold does not apply) are required to register as cash receipt issuer.

d. Acceptance of credit card and issuance of cash receipt

At the request of customers, business owners shall accept a credit card or issue a cash receipt, as the case may be. If they turned out to have refused to do so, they are liable to penalty equal to 5% of the transaction amount concerned.

e. Use of business account

Those who are required to adopt the double-entry system of recording transactions shall open a business account with a bank and use the account, in case where they make a payment or receive a payment through a financial institution or where they pay or receive personnel expense or rents. When business transactions are designated by presidential decree and their business accounts are difficult to use for the counterparty's reason, they are excluded. When conducting transactions other than the afore-mentioned ones, the taxpayer shall prepare and keep a separate statement showing transaction details.

10. Non-Resident Income Taxation

a. General

- (1) A non-resident is liable to tax on income derived from sources within Korea. Two methods of taxation are applied: global taxation and separate taxation. Global taxation is applied to non-resident taxpayers who have a place of business in Korea or those with income from real estate located in Korea (excluding capital gains from the transfer of land or buildings). All domestic source income is subject to global taxation, except for severance pay and capital gains, all of which are taxed in the same manner as they would be if earned by a resident. Withholding taxation is applied to each domestic item of income of non-residents who do not have a place of business in Korea and do not

have income from real estate located in Korea.

- (2) A non-resident's tax address is the domestic business place. In the case of a non-resident who has no domestic business place, its tax address will be the place where such income is derived.

b. Income from Domestic Sources

- (1) Interest Income: Interest and discount on bonds or securities issued by the national government or local autonomous bodies and other profit from a trust or non-commercial loan as prescribed by the following subparagraph shall be regarded as a domestic source income. However, interest paid on funds borrowed directly by a Korean resident's permanent establishment (PE) in a foreign country or by a Korean corporation for its business outside Korea shall not be considered as domestic source income.
 - interest paid by the national or local government, a resident, a domestic corporation of Korea, a foreign corporation's PE in Korea, or a non-resident's PE in Korea
 - interest received from a foreign corporation or a non-resident, where a PE of the concerned party includes the interest paid in computing taxable income as deductible expenses related to its operation
- (2) Dividend income: distributions of profits or surplus, and advance payment of dividends under the Korean Commercial Code without surplus or cumulative earnings received from a domestic corporation or other business entity
- (3) Real estate income: income arising from the transfer of a lease, or any other interest from real estate located in Korea, including titles to the real estate, mining rights, mine lease-holding rights, or quarrying rights located in Korea, excluding income subject to capital gains tax
- (4) Income from lease of vessels, aircraft, etc.: income arising from the lease of vessels, aircraft, registered automobiles or heavy equipment to residents, domestic corporations, or the Korean places of business of non-residents and foreign corporations
- (5) Business income: income arising from performance of services in the

following industries: livestock, forestry, fisheries, mining, quarrying, manufacturing, electricity/gas/water services, construction, communications, real estate dealing, services, and professional services (excluding personal service income)

(6) Personal service income: an amount receivable as payment for furnishing or having other utilized personal services such as:

- (a) services provided by actors, musicians, or other public entertainers,
- (b) services provided by professional athletes,
- (c) services provided by lawyers, certified public accountants, licensed tax accountants, certified architects, public surveyors, patent lawyers, and others in liberal professions, and
- (d) services rendered by persons having expert knowledge or special skills in science, technology, business management, or other fields involving the utilization of such knowledge or skills.

*Actual reimbursement of airfare, accommodation fees or meal expense is excluded from personal service income.

(7) Capital gains: gains derived from the transfer of land and buildings located in Korea

(8) Wage and salary income including pension or severance pay: the amount received as payment for labor performed in Korea

(9) Royalties, rents, or any other consideration of a similar nature receivable for the use of the following assets or technical information within Korea, or for the right to use such assets or technical information, and income arising from the transfer of said assets or technical information.

- (a) Copyrights on academic or artistic works (including motion pictures), patent rights, trademark rights, designs, models, drawings, secret formulae or processes, films and tapes for radio and television broadcasting, and any other similar assets or rights
- (b) Industrial, commercial, or scientific knowledge, experience, or skill
- (c) Industrial, commercial, or scientific machines, equipment, devices, and fixtures, and such other tools as transport equipment, etc.

- (10) Gains arising from the transfer of investment securities or shares invested in a domestic corporation or other securities issued by a domestic corporation or the domestic business place of a foreign corporation. However, gains arising from the transfer by a non-resident of domestically listed shares or corporate shares registered with the Korean Securities Dealers Association shall not be taxed, subject to the reciprocity principle.
- (11) Other income:
- (a) Insurance money, compensation money, or compensation for damages received in connection with real estate or other assets located in Korea, or those related to businesses conducted in Korea
 - (b) Money, goods, or other economic benefits received as a prize from contests held in Korea
 - (c) Income from sale of treasure found within Korea
 - (d) Income from the assignment within Korea of rights established by license, permission, or other similar disposition under the Korean law, or from the transfer of property located in Korea at the time of transfer, other than real estate
 - (e) Money or goods received as a prize in a lottery, drawing, or any other contest, including the purse payable to the buyer of a winning ticket for horse racing, cycle racing, motorboat racing, bull fighting and sports betting game
 - (f) Income other than those described above, arising from a business operated in Korea or the provision of personal services in Korea; in addition, this subparagraph includes economic benefits received in connection with assets in Korea (Note that if the amount received from the redemption of bonds issued by the government or banks established under the laws of Korea in a foreign currency exceeds the face value of such bonds in foreign currency, the balance in value shall not be included under this section.)

c. Domestic Business Place

- (1) If a non-resident has a fixed place of business in Korea of a type described in (a) through (e) below, he or she is deemed to have a domestic place of business.

- (a) A branch or any other business office
 - (b) A store or any other fixed sales place
 - (c) A workshop, factory, or warehouse
 - (d) A building site, a location of construction, assembly or installation work, or a place for providing supervision of such work, any of which exists for more than 6 months
 - (e) A place for providing service through an employee for a period exceeding 6 months in aggregate out of any 12 consecutive month period
- (2) The domestic places of business prescribed in the preceding paragraph do not include the following:
- (a) a fixed place used by a non-resident only for the purchase of assets,
 - (b) a fixed place used by a non-resident only for storage or custody of assets for non-business purposes,
 - (c) a fixed place used by a non-resident for advertisement, public relations, collection or furnishing of information, market survey, or other activities of a preparatory or auxiliary nature for a business operation, or
 - (d) a fixed place used by a non-resident only for the purpose of having other persons process property of the non-resident; e.g., a foreign person might provide raw materials, title to which remains with the foreign person, into Korea to be assembled or processed into products for sale in the foreign person's home country; this activity would not give rise to a place of business in Korea.
- (3) If a non-resident having no fixed place in Korea carries on a business through a person in Korea who is authorized to conclude and regularly does conclude contracts on the non-resident's behalf, such non-resident is deemed to have a place of business in Korea. In addition, a non-resident having no fixed place in Korea who carries on a business in Korea through any of the following persons is also deemed to have a business place in Korea.
- (a) A person who regularly takes custody of goods delivered to Korea and delivers them to customers upon receipt of orders
 - (b) A person who regularly takes orders, carries on consultations, or

conducts other important activities specifically for such non-resident

- (c) A person who collects insurance premiums or insures risks located in Korea on behalf of such non-resident

d. Tax Withholding on Non-Residents

(1) Unless otherwise provided in an applicable tax treaty, persons paying an amount of income from domestic sources to non-residents (excluding capital gains from real estate, wage & salary income or retirement income derived by non-resident individuals which are subject to the same taxation rules as those applicable to each of the three income items derived by resident individuals) not attributable to a domestic business place, shall withhold as income tax at source of the income the applicable amount enumerated below. The tax withheld must be paid to the government by the 10th day of the month following the month in which such tax was withheld.

- (a) Income from lease of vessels, aircraft, etc., and business income: 2% of the amount payable

- (b) Personal service income: 20% of the amount payable *

*Actual reimbursement of airfare, accommodation fees or meal expense is excluded from personal service income. Despite the separate taxation provisions on personal service income, the taxpayer may also elect to include income from the rendering of personal service less such amount reimbursed in domestic-source income when filing his/her income tax return in Korea.

- (c) Interest income*, dividend income, royalty, and other income: 25% of the amount payable

* Interest derived from bonds issued by the State, local authorities and domestic companies is subject to 14% of withholding tax rate.

- (d) Gains from the transfer of securities or shares: 10% of the amount payable

However, if the purchase price of the securities or shares can be readily confirmed, the amount of tax withheld at source is the lesser of 10% of the amount payable or 25% of the gain on such a sale. If the securities or shares are transferred to a non-resident through a securities company, the securities company must

withhold the income tax and pay it to the government at the tax office with jurisdiction over the domestic corporation (or the domestic business place of the foreign corporation) that issued the securities or shares.

In case where the transferor of the securities or shares and its related parties together held less than 25% of total shares in the stock issuer in the year in which the transfer took place and over the previous 5 years, the capital gains concerned are non-taxable. In the case of the transfer of securities or shares which the non-resident held through a partnership, whether the non-resident passes the 25% shareholding test or not will be determined based on the partnership's shareholding in the domestic company concerned rather than based on the non-resident's shareholding.

- (e) If a non-resident transfers securities of the same issue with different acquisition costs through a securities company, the company shall compute the acquisition value of the securities sold by using the moving average method.

- (2) If a non-resident engages in a construction, installation, assembly project, or performs supervisory services related thereto on a short-term basis in Korea, the Korean resident paying for such services shall withhold income tax at source. However, if such non-resident registers its permanent establishment with the appropriate tax office, the payer will not be required to withhold and pay the tax.

- (3) If a resident of Korea pays a non-resident who is engaged in the operation of vessels or aircraft in international transportation and who is not deemed to have a place of business in Korea, the resident shall withhold tax on the Korean-source portion of the amount paid.

- (4) If a person subject to tax withholding fails to withhold and pay tax as required on time, a penalty equivalent to 10% of the amount of tax not paid shall be imposed on that person.

- (5) Non-resident individuals deriving in Korea income from lease of

vessels or aircraft, business income, personal service income, wage & salary income, retirement income, royalties or capital gains from securities (interest and dividends excluded) or their withholding agent who submitted a wage and tax statement within the statutory deadline may request a reassessment of the tax base and the tax amount within 3 years from the end of the deadline.

Chapter III: Corporation Tax

1. Taxpayer

Companies subject to corporation tax in Korea can be classified into two types: domestic or foreign and for-profit or non-profit. For tax purposes, a company with its head or main office in Korea is deemed to be a domestic company and is liable to tax on its worldwide income. Otherwise, it is considered to be a foreign company, and the tax liabilities of foreign companies are limited to Korean-source income.

a. Domestic Corporation

- (1) A corporation with its head or main office or place of effective management in Korea is liable to corporation tax on its worldwide income.

- (2) A for-profit domestic corporation is liable to tax on the following items of income.
 - i) All items of ordinary business income including income from sales of real estate property
 - ii) Liquidation income: income realized upon liquidation of the business due to a corporate merger, a consolidation, or a cessation of the company as a taxable entity

- (3) For a non-profit domestic corporation, the following items of income are taxable:
 - i) income from profit-making businesses under the Korean Standard Industrial Classification,
 - ii) interest income and discount from deposits and debenture (including public bonds),
 - iii) dividend and distribution of profit from companies,
 - iv) capital gains from the alienation of stocks, preemptive rights, or shares,
 - v) capital gains from the alienation of fixed assets not used directly for nonprofit corporations,

vi) gains from the transfer of bonds and debentures.

b. Foreign Corporation

- (1) When a corporation with its head or main office located in a foreign country earns income from domestic sources, only the income from a domestic source is subject to corporation tax (only if the corporation has no place of effective management in Korea); however, income from liquidation of a foreign corporation is not taxable.
- (2) For non-profit foreign corporations, no corporation tax is assessed on income other than that from profit making businesses in Korea.

c. Rules and Special Cases Determining Liability

- (1) When a corporation to which the corporate income is legally attributed is different from the corporation to which that income actually belongs, the corporation tax shall be assessed on the latter-mentioned corporation.
- (2) For income attributable to a trust estate, the beneficiary of the trust is subject to corporation tax.

2. Place of Tax Payment

a. General

- (1) Domestic corporation

Domestic corporations shall pay corporation taxes at the place where head or main office or place of effective management of the corporation is located.

- (2) Foreign corporation

Foreign corporations with permanent establishments (PEs) in Korea shall pay corporate taxes at the location of the PE. If a foreign corporation without a PE in Korea earns income from real estate transactions, transfer of land or buildings, lumbering, or transfer of timber, it shall pay the taxes at the respective place where such assets

are located. If a foreign corporation maintains two or more PEs in Korea, the place of tax payment shall be the location of its main PE. In such a case, the main PE is the PE earning the largest portion of business revenue in the year when the place of tax payment is initially filed.

b. Designation of Place of Tax Payment

Notwithstanding the aforementioned provision, the government may designate a different place of tax payment when the registered place of tax payment is determined to be inappropriate. Such a designation may take place in the following cases:

- (1) When the physical location of the head or main office of the corporation is different from its registered address;
- (2) When a tax evasion is suspected based on the fact that the location of the head or main office is not where the corporation's main assets are held or its business is conducted;
- (3) When a foreign corporation has two or more PEs, and when the place of the main PE is not clearly identifiable or established;
- (4) When a foreign corporation without a PE in Korea accrues income from real estate (and other similar) transactions, sale or transfer of business assets, or business transactions involving timber, but does not file its place of tax payment.

c. Reporting Change of the Place of Tax Payment

When there is a change in the place of tax payment, the corporation must report it to the tax office within 15 days from the date of change.

d. Withholding Taxes

The place of payment of taxes withheld by a domestic or foreign corporation shall be where the head or main office of the domestic corporation (the main PE in case of a foreign corporation) is located. However, if the securities issued by a domestic corporation are transacted between non-residents or foreign corporations outside Korea and capital gains arise from the transaction, the place for payment of the taxes withheld shall be the location of the head or main office of the corporation that issued the securities, notwithstanding the location of the tax withholding agent. Generally, the agent withholding taxes will be the security company when the securities are transacted through the company. In other cases, the seller of the securities may be the withholding agent.

3. Taxable and Non-Taxable Income

a. Taxable Income

The corporation tax is assessed on the following income:

- (1) income during each business year,
- (2) liquidation income (non-profit domestic and foreign corporations are exempted)

b. Non-taxable Income

Corporation tax is not levied on income derived from property of public welfare trusts; it does not matter whether the application for non-taxation is submitted or not.

4. Tax Base

a. Income during Each Business Year

The income of a domestic corporation during each business year is the amount remaining after deducting the gross amount of losses from the gross amount of gains in the same business year.

b. Calculation of Tax Base

- (1) The basis for corporation tax on the income of a domestic corporation for each business year shall be the income for each business year remaining after the successive deductions of the following items.
 - (a) Amount of deficits carried forward for the previous 5 years which were not previously deducted (Note: it shall not be deductible in cases where the tax authority determines that a corporation unreasonably reduces its tax burden through mergers or consolidations)
 - (b) Non-taxable income in accordance with the Corporation Tax Law and other relevant laws
 - (c) Deductible income in accordance with the Corporation Tax Law and other related laws
- (2) However, the deductible amount specified in Paragraph (1) shall not exceed the amount of income for each business year. In the case of a corporation in deficit, the said amount of deduction shall not apply.

- (3) Provisions concerning the calculation of taxable amount of income for the purpose of corporation tax shall be applicable in accordance with the actual details of the transactions.

c. Business Year for Gains and Losses

A business year for gains and losses of a domestic corporation is the business year in which closing of accounts of the said gains and losses takes place. Specific dates are shown below.

- (1) Sale of merchandise or products: the date of delivery of said merchandise or products
- (2) Transfer of other assets: the date of receiving consideration, or the earliest date among registration, delivery, or utilization of the assets
- (3) Sale of assets through consignment: the date of sale by the consignee
- (4) Sale or transfer of assets on a long-term installment payment basis: the amount collectible according to the terms of the payment for the business year and the expenses attributable thereto
- (5) Long-term contract concerning construction or manufacturing for one or more business years: the completion percentage of the construction or manufacturing of the items
- (6) Interest, insurance premiums, or installment payments receivable by banking institutes, insurance companies, securities companies, mutual saving and finance companies: the date that the said gains have actually been received
- (7) Losses or gains of revaluation of foreign currency credits and liabilities due to a change in the exchange rate: include or deduct from gross income for the respective business year the gains or losses on the translation of foreign currency receivables or payables
- (8) Deemed dividends and distribution:
 - (a) In the case of effacement of stocks, decrease of capital: the date of decision of effacement, or decision thereof by a general stockholders meeting, etc.
 - (b) In the case of transfer of surplus and reserves into capital except for capital reserve and assets revaluation reserve into capital: the date of decision of transfer thereof by the general stockholders meeting, etc.
 - (c) In the case of dissolution of a corporation: the date of final determination of the residual value of assets

- (d) In the case of merger or consolidation: the date of registration of the merger or consolidation
- (e) In the case of corporate division: the date of the registration of the division

5. Gains

a. Gains

Gains denote income and profit from transactions that increase the net value of the assets of a corporation except for paid-in capital and other related activities as prescribed in the Corporation Tax Law.

- (1) Income from profit-making businesses excluding sales returns and discounts
- (2) Gains from asset (including treasury stocks) transactions
- (3) Receipts from asset leasing
- (4) Dividends or distributions receivable
 - (a) An amount, in excess of the amount necessary to acquire stocks or investment receivable by investors as a result of effacement of stocks, decrease of capital
 - (b) The value of stocks or investment acquired by transferring surplus or reserves into capital with the following exceptions:
 - i) transferring paid-in capital over par into capital;
 - ii) transferring surplus from consolidation or merger into capital;
 - iii) transferring gains on retirement of treasury stock (the market value of treasury stock shall not exceed the price paid to acquire the treasury stock) into capital two years after the retirement; or
 - iv) transferring asset revaluation reserve into capital.
 - (c) An amount exceeding the price paid to acquire stocks or investment receivable by investors through the distribution of residual property caused by the dissolution of a corporation
 - (d) An amount exceeding the price paid to acquire stocks or investment of the extinguished corporation due to a merger or consolidation with a newly established or existing corporation
 - (e) An amount exceeding the price paid to acquire stocks or investment of the divided corporation due to the division of corporation

- (5) Gains from revaluation of assets
- (6) Value of assets receivable without compensation, excluding any portion used to cover carried-over losses
- (7) Decreased amount of liabilities by exemption or lapse of debts, excluding the portion used to make up for carried-over losses
- (8) An amount of disbursed loss that has been returned
- (9) An amount of reserves set aside with losses and not by means of appropriating profit
- (10) Gains received from related parties
- (11) An amount of tax-free reserves in excess of the prescribed limit under the law
- (12) An amount of non-designated donations and designated donations in excess of the prescribed limit under the law
- (13) An amount of entertainment expenses in excess of the prescribed limit under the law
- (14) Other income which has been, or is to be vested in the corporation

b. Non-Inclusion of Gains

Gains enumerated below are not counted as gains for the respective business year in the calculation of income.

- (1) An amount in excess of the face value of stocks issued
- (2) Profits from capital reduction
- (3) Profits from mergers, excluding those from revaluated gains from mergers prescribed by the relevant Presidential Decree
- (4) Profits from division, excluding revaluated gains from corporate division prescribed by the relevant Presidential Decree
- (5) In case where a company (Company A) creates another company (Company B) and becomes a wholly owned subsidiary of Company B by transferring all of its shares to Company B, any gains from such share transfer
- (6) In case where one company (Company A) becomes a wholly owned subsidiary of the other company (Company B) based on a contract under which total shares held by shareholders of Company A are transferred to Company B and the shareholders are granted Company A's shares, any gains from such share exchange

- (7) Profits carried over
- (8) Revaluation balance under the Asset Revaluation Law, except when a 1% tax rate is levied on revaluation
- (9) An amount of corporation tax or inhabitant tax refundable used for the payment of other tax liabilities
- (10) Interest on the refund of erroneously paid national taxes or local taxes
- (11) The value of assets received without compensation and an amount of liabilities decreased due to exemption or lapse of debts, used for balancing deficits carried-over
- (12) 90% of the amount of dividends received by institutional investors from corporations under certain conditions in compliance with the Presidential Decree
- (13) The output tax amount under the Value Added Tax Law.

6. Avoiding Double Taxation on Dividend Income

a. In the Case of a Holding Company

Dividend income received by a holding company established in accordance with the Anti-trust and Fair Trade Law from its subsidiaries is not recognized as gains to a certain extent as the following table shows.

Type of Subsidiary	Proportion of shares of subsidiaries owned by their holding company	Proportion of dividend income deductible against gains
Non-listed corporation	100%	100%
	Above 80%	90% (100% from 2009)
	50%-80%	70% (80% from 2008)
Listed Corporation	Above 40%	90% (100% from 2009)
	30%-40%	70% (80% from 2008)

b. In the Case of a Corporation Other Than Holding Companies

Dividend income received by a corporation other than holding companies from its subsidiaries is not recognized as gains to a certain extent as shown below.

Type of Subsidiary	Proportion of shares of subsidiaries owned by the corporation	Proportion of dividend income deductible against gains
Non-listed corporation	100%	100%
	Above 50%	50%
	50% or below	30%
Listed corporation	Above 30%	50%
	30% or below	30%

7. Losses

a. Losses

Losses denote the amount of losses and expenses incurred by transactions that decrease the net assets of the corporation, except for the refund of capital or shares, appropriation of surplus, or what may be prescribed in the Corporation Tax Law.

Losses include the following:

- (1) Purchase value of raw materials and incidental expenses against merchandise or products sold, excluding purchase allowances and eligible purchase discounts;
- (2) Book value of transferred assets at the time of transfer;
- (3) Salaries and wages;
- (4) Repair and maintenance costs of fixed assets;
- (5) Depreciation costs of fixed assets;
- (6) Rent of assets;
- (7) Interest on financial debts;
- (8) Insolvent debts (including output VAT which is not collected and which is not eligible for insolvent debt tax credit under the VAT law);
- (9) Losses on revaluation of assets;
- (10) Taxes and public imposts;
- (11) Fees paid to entrepreneur organizations that are corporations or registered associations;
- (12) Exploration expenses in mining businesses including development costs for exploration;
- (13) Advertisement and sales promotion expenses;

- (14) Losses on transfer of securities and disposition of fixed assets;
- (15) Public contributions, designated as donations and entertainment expenses within the prescribed limit;
- (16) Tax-free reserves;
- (17) Welfare expenses for employees and directors;
- (18) Other expenses which have been or are to be vested in the corporation.
- (19) Acquisition cost, where the acquisition cost for a work of art displayed normally in an office or hallway for the purpose of adornment, where a lot of people appreciate it is treated as deductible loss (the cost should be limited up to one million won per a work of art)

b. Tax Free Reserves

- (1) Reserves under the following items are counted as losses within the limit described.
 - (a) Reserves for retirement allowance: up to 5% of the total amount of wages paid to employees and managing directors (excluding bonuses, which are excluded from deductible expenses) who have been in service for one year or more; however, the accumulated amount of the reserves shall be limited to not more than 30% (35% for 2007 and 2008) of the estimated retirement allowances payable to all employees if they retire on the closing date of the business year;
 - (b) Reserves for bad debts:
 - Aggregate amount of debts in the year concerned X rate (%)
 - Rate: the greater of (i) or (ii)
 - (i) 1% (2% in the case of financial institutions prescribed in the relevant Presidential Decree) of aggregate amount of debts
 - (ii) Non-redeemable bad debts in the year concerned / Aggregate amount of debts in the previous year.
 - (c) Liability reserves and emergency reserves prescribed in the Insurance Business Law: up to an amount prescribed in the relevant Presidential Decree;
 - (d) Reserves for interest payment to insurance holders set aside by the insurance company: up to an amount approved according to the

standard agreed between the Financial Supervisory Commission and the Ministry of Strategy and Finance

- (e) Reserves for nonprofit organizations: within the scope of the aggregate amount of the following:
 - i) interest income including distribution of profit arising from securities investment trusts and dividends, or
 - ii) 50% of the income, excluding interest income and dividends mentioned in i), arising from profit making businesses; the remaining amounts after offsetting actual nonprofit use within 5 years are included as gains.
- (f) Reserves for the write-off of a compensation claim set aside by trust guarantee funds in each business year: up to an amount equivalent to 1% of the balance of the trust guarantee by the end of the business year concerned (the remaining amount after offsetting actual losses are included in the gains of the following year).

(2) The amounts enumerated below are counted as losses in calculating income for the business year:

- (a) the amount of gains from insurance claims used to acquire the same kinds of fixed assets as the lost fixed assets, or to improve the damaged fixed assets within 2 years after the beginning day of the business year following the business year in which the gains fall;
- (b) the amount of a beneficiary's share of construction costs received by a domestic corporation engaged in the electricity or gas business, etc., used for the acquisition of fixed assets;
- (c) the amount of the national treasury subsidies actually used for acquisition or improvement of fixed assets for business.

c. Non-Inclusion of Losses

- (1) Losses and expenses enumerated under the following items shall not be counted as losses in the calculation of the income amount of a domestic corporation for each business year.
 - (a) An appropriated surplus which is included in losses and expenses, except for (i) bonus paid out of an entrepreneur's own stocks acquired under the Securities Transaction Law (Article 189-2) (ii)

stock option available under the Special Tax Treatment Control Law, and (iii) profit-sharing bonus

- (b) Dividends of interest payable during construction
- (c) Discounts on stocks issued below par
- (d) Corporation tax (including foreign corporation tax amount) or inhabitant tax pro rata income paid or payable in each business year: taxes paid or payable for failure to comply with tax laws (including penalty tax) and an input tax amount in value added tax (excluding any tax amount where the value added tax is exempt or in other cases prescribed by the relevant Presidential Decree)
- (e) Unpaid amounts of liquor tax, transportation energy environment tax, and individual consumption tax on inspected or carried out products not yet sold
- (f) Fines, penalty taxes and expenses for disposition of tax barriers
- (g) Losses from revaluation of assets other than the revaluation set forth in Article 42-2 and 42-3 of the Corporation Tax Law
- (h) Expenses deemed not directly related to a corporation's business
- (i) Bonuses payable by a corporation to its directors in excess of the amount prescribed in the Articles of Corporation Tax Law, determined by a resolution of a stockholders' meeting or a general meeting of company members (including bonuses paid to the directors based on an appropriation of retained earnings)
- (j) Interest as follows:
 - i) Interest on debt incurred specifically from construction of business assets
 - ii) Interest on private loans from unknown sources
 - iii) Interest or an amount of discount on debentures and securities paid to obscure payees not affirmed objectively
- (k) The amount exceeding the limit of the depreciation of fixed assets allocated for each business year of a corporation, set forth in the Corporation Tax Law
- (l) The amount of retirement allowance payable to directors by a corporation in excess of the amount as follows:
 - i) The amount set forth in the articles of incorporation
 - ii) Total amount of (salary received by the retiring officer for one year) $\frac{1}{10}$ (Length of employment of the officer before

retirement) (excluding the deductible expenses)

- (m) The amount exceeding the limit of business expense incurred to an insurance corporation which is set forth in the Presidential Decrees based on its total premium gains during the same year

(2) Designated donations

- (a) Where a corporation makes donations other than those listed below, or where the amount of the designated donation is in excess of the aggregate of an amount equivalent to 5% of the taxable income, is not counted as losses but can be carried over for 3 years.

- i) Donations to public interest entities, social welfare organizations, and religious organizations
- ii) Donations and scholarship for academic research, technical development, and development of athletic skills
- iii) An amount disbursed by a non-profit corporation engaged in profit-making businesses for its own non-profit business
- iv) Other donations to public entities prescribed by the Presidential Decree

- (b) The following public contributions are counted as losses to the extent of 50% (75% for 3 years from 2006 to the end of 2008) of taxable income and any excess over the ceiling may be carried over for 1 year:

- i) Value of money and goods donated to government agencies and local government bodies without compensation
- ii) Contributions for national defense and war relief
- iii) Value of money and goods donated for the relief of disaster victims
- iv) Contributions to private schools to be used as funds for facilities, education, scholarship or research
- v) Contributions to foreign education institutions established in the Free Economic Zone to be used as funds for facilities.

(3) Entertainment expenses

Where the entertainment expenses exceed the aggregate sum of the following, the amount in excess thereof is not to be counted as losses.

- i) An amount calculated by multiplying 12 million won (18

million won for small and medium-sized enterprises) with the number of months in the respective business year divided by 12

- ii) An amount calculated by multiplying the amount of gross receipts for a business year with rates listed in the following table (in the case of receipts from transactions between related taxpayers, 20% of the amount calculated by multiplying the receipts with following rates shall be applied)

Amount of gross receipts	Rate
10 billion won or less	0.2%
Over 10 billion won but not more than 50 billion won	20 million won + 0.1% of the excess over 10 billion won
Over 50 billion won	60 million won + 0.03 % of the excess over 50 billion won

(4) Arm's length price on transactions by related parties

Where a domestic corporation unreasonably reduces its tax burden in transactions with related persons, the tax authority may calculate the taxable income using the arm's length price.

(5) An expense amounting to 500 thousand won or more

Only where data concerning entertainer, entertainee and the purpose of the entertainment expense are kept in writing.

d. Depreciation

Depreciation is considered as losses in calculating income within the limit of an amount set aside at the depreciation rate according to the serviceable life of the fixed assets when a corporation has counted the depreciation amount of fixed assets in losses.

(1) Methods for calculating depreciation

Depreciation of fixed assets of corporations is calculated according to the methods enumerated below.

(a) Buildings and intangible assets: Straight-line method

- (b) Tangible fixed assets (excluding tangible fixed assets used in mining): Fixed percentage method or straight-line method
- (c) Mining rights: Service output method or straight-line method
- (d) Tangible fixed assets used in mining: Service output method, fixed percentage method, or straight-line method
- (e) Research and Development cost: equally-distributed amount within 20 years after the year when sales or use of merchandise is possible
- (f) Assets which are donated to the nation, local provinces, and designated non-profit corporations after having been used: equally-distributed amount during the using period of the assets can be counted as loss

(2) Acquisition value of fixed asset

- (a) In the case of fixed assets that have been purchased, it is the price quoted at the time of the purchase (including registration tax, acquisition tax, and other incidental costs).
- (b) In the case of fixed assets acquired by means of one's own construction, fabrication, etc., it is the aggregate of raw material cost, labor cost, freight, loading and unloading cost, insurance dues, fees, public imposts (including registration tax and acquisition tax), installation expenses, and other incidental cost.
- (c) In the case of fixed assets other than those under the preceding categories, it is the normal price quoted at the time of acquisition.

(3) Serviceable life and depreciation rate

- (a) The serviceable life and depreciation rate of fixed assets are calculated according to the guideline for serviceable life of fixed assets prescribed in the Ministerial Decrees whereupon taxpayers may elect the respective serviceable life within the limit of 25% of the guideline, excluding fixed assets used for experimental research.
- (b) In the following cases, taxpayers may elect between 50% of the serviceable life and the 100% of serviceable life set forth in the guideline.
 - i) When a company purchases assets that have been used for equal to or more than 50% of the serviceable life
 - ii) When a company purchases assets through mergers or

liquidations of companies

(4) Residual value

The residual value of a fixed asset is zero; but in case of depreciation by the fixed percentage method, the residual value is regarded as the amount equivalent to 5% of the acquisition amount which is treated as expense at the final year of depreciation.

(5) Revenue expenditures and capital expenditures

- (a) Maintenance expenses disbursed by a corporation either to restore its assets to their original state or to maintain their efficiency are regarded as revenue expenditures.
- (b) Maintenance expenditures either to extend the serviceable life of fixed assets or to increase their value are regarded as capital expenditures.

e. Valuation of Inventory Assets

- (1) A corporation may elect one of the following methods of inventory valuation and submit a report on its valuation method by the due date.
 - (a) Cost method
 - (b) Lower of the price estimated by the cost method and the market price estimated by Financial Accounting Standards

- (2) In applying the cost method, one of the following is applicable:
 - (a) Individual cost method
 - (b) First-in first-out method
 - (c) Last-in first-out method
 - (d) Weighted average cost method
 - (e) Moving average cost method
 - (f) Cost of sale rebate method

- (3) Different valuation methods may be used for the following different categories and different business places.

- (a) Products and merchandise
- (b) Semi-finished goods and goods in process
- (c) Raw materials
- (d) Goods in stock

(4) In one of the following cases, the head of the district tax office may value inventory assets according to the first-in first-out method (individual cost method is used in the case of real estate owned for the purpose of sale):

- (a) if a corporation has failed to report its valuation method of inventory assets within the reporting period;
- (b) if a corporation has valued the inventory assets according to an valuation method other than the reported method;
- (c) if a corporation has changed the valuation method without filing a report on the change thereof.

(5) Valuation of securities

The valuation of securities shall be made using the cost method. For cost method, the following methods shall be applied for the purpose of valuation of securities.

- i) Weighted average cost method
- ii) Moving average cost method

* Individual cost method may be used for valuation of bonds.

8. Tax Rates and Credits

a. Tax Rates

(1) Tax base of 100 million won or less: 13%

Tax base over 100 million won: 13 million won + 25% of the excess over 100 million won

(2) Where a business year is less than one full year, the tax amount is computed as follows:

Tax Amount = (Tax Base X 12/NMBY) X Tax Rate X (NMBY / 12),
where NMBY = number of months of business year

- (3) Additional Tax imposed on Excessive reserved earnings of large businesses not listed in the Korea Stock Exchange is abolished from the fiscal years, which start on and after January 1, 2002.

b. Tax Credits

(1) Credit for tax paid abroad

- (a) Where a domestic corporation has paid or is liable to pay foreign corporation tax abroad, the tax amount paid or payable abroad is deducted from the corporation tax up to an amount equivalent to the ratio of the income from foreign sources to the total taxable income. If the foreign tax amount paid or payable exceeds the prescribed creditable limit against the corporation tax payable for the year, the excess portion may be carried over for 5 years.
- (b) The foreign tax paid by a qualifying subsidiary is eligible for foreign tax credit against the dividend income of a parent company if an existing tax treaty between Korea and the country of which the foreign corporation is a resident allows it. A qualifying subsidiary is one in which a domestic corporation owns 20% or more of its shares for more than 6 consecutive months after the date of dividend declaration.
- (c) When income from foreign sources earned by a domestic corporation is exempt from tax in a source country, nevertheless the exempted amount of income will be taken into account in calculating the foreign tax credit to the extent that the tax treaty allows.

(2) Tax credit for loss caused by disaster:

Where a domestic corporation is deemed to have difficulties in paying tax because it has lost 30% or more of the total value of its assets due to a natural disaster, a tax amount equivalent to the ratio of the value of the asset loss to the value of total assets is deducted from corporation tax. The amount of tax credit available is limited to the

value of the asset loss caused by disaster.

9. Tax Returns and Payment

a. Tax Returns

(1) Due dates for filing a tax return

A corporation tax return must be filed within three months from the last day of the business year.

(2) Required documents

- (a) Attached to the tax return shall be a balance sheet, an income statement, a surplus appropriation statement, and other necessary documents.
- (b) The calculation form of corporation tax and its accompanied documents in accordance with the Presidential Decree.
- (c) In cases where the necessary materials are not attached to the tax return, it is deemed not to have been filed.

b. Interim Pre-Payment

- (1) A domestic corporation of which business year exceeds 6 months is liable to interim tax payment by the end of the second month from the end of the interim period (i.e., 6 fiscal months). The amount of pre-payment is computed as shown below:

$$\text{Tax Amount Payable} = \{\text{TPY} - (\text{a}) - (\text{b}) - (\text{c})\} \times 6 / \text{NMPFY}$$

Where TPY = Tax Amount for Preceding Year, and

NMPFY = Number of Months of Previous Fiscal Year

- (a) corporation tax exempted or reduced in the business year immediately preceding the current business year;
- (b) withholding tax paid in the business year immediately preceding

the current business year;

- (c) taxes paid due to occasional assessments in the business year immediately preceding the current business year.

(2) Any corporation that has no tax payable for the immediately preceding business year (excluding corporations that correspond to Article 51-2, paragraph 1 of the Corporation Tax Law) or one whose tax liability for the previous business year has not been determined by the end of the interim prepayment period shall pay an amount of tax for interim prepayment, calculated by deducting the followings from the deemed corporation tax that corresponds to the interim prepayment period:

- (a) an aggregate of deductible tax amounts for the interim prepayment period in question;
- (b) an amount of withholding tax paid as corporation tax for the period in question;
- (c) an amount of tax for occasional assessment paid as corporation tax for the period in question.

c. Payment

(1) A corporation filing a tax return must pay by the last day of tax return period the amount remaining after deducting the following items from the calculated tax for each business year:

- (a) An aggregate of tax credit amounts
- (b) Amount of tax for interim prepayment
- (c) Amount of tax for occasional assessment
- (d) Amount of tax withheld at source

(2) Where the amount of tax payable by a domestic corporation pursuant to the above paragraph exceeds 10 million won, part of the amount of tax payable may be paid in installments within one month (45 days in case of small and medium corporations) from the end of the payment period, in such a manner as prescribed by the relevant Presidential Decree.

10. Tax Computation, Adjustments, and Collection

a. Basic Rule of Determination and Adjustment

- (1) As a rule, when a domestic corporation fails to file a return, the government determines the tax base and the amount of corporation tax payable on the income of the corporation for each business year.

- (2) Where the government determines or corrects the tax base and tax amount payable of a corporation, the base and tax amount have to be determined based on the business records and other relevant documents maintained by the corporation.

b. Determination and Adjustment of Tax Base and Tax Due

- (1) When the tax return that a domestic corporation has filed falls within one of the following categories below, the government may correct its tax base and the tax due.
 - (a) When there are any errors or omissions in the return filed
 - (b) When the company fails to submit payment statements or an aggregate summary of accounting statements or an aggregate summary of tax invoices classified by sale place and purchase place.

- (2) Determination of the tax base and amount by estimation

Where the government is unable to calculate the tax base and tax amount because of a failure to keep sufficient or reliable accounting records, the tax base and amount of corporation tax are determined according to the standard income rate or in line with other corporations in the same line of business.

- (3) Determination by estimation may take place in the following cases:
 - (a) accounting records required for calculation of the tax liability are insufficient or false;
 - (b) the contents of accounting records are explicitly false in consideration of the facilities, number of employees, and the prevailing market prices of raw materials, merchandise, products, or various charges and rates;

- (c) the contents of accounting records are explicitly false in consideration of the quantities of raw materials used, electric power used, and other operating indicators.

c. Occasional Assessment

- (1) If tax evasion by a company is suspected, the government may occasionally assess corporation tax. In particular, the occasional tax assessment may take place if:
 - (a) the corporation has moved its head office or its main office without filing a report;
 - (b) the company's business operation is suspended or is terminated; or
 - (c) where there is sufficient reason to determine that the corporation intends to avoid or evade taxes.
- (2) The government assesses corporation tax by examining the period from the beginning date of the business year to the date of discovery of circumstances, which led to the occasional assessment.

d. Notice of Tax Base and Tax Amount

- (1) Where the government has determined or corrected the tax base and tax amount on the income of a corporation for each business year, it shall notify the statement of tax base and tax amount and other relevant statements to the respective corporations.
- (2) Where the government has determined or corrected the tax base of a corporation whose location is unclear, it shall serve a public notice thereon.

e. Collection

- (1) Where a corporation has failed to pay the amount of corporation tax payable for each business year, in full or in part, the government will collect the unpaid corporation tax within two months from the end of the payment period. In the case of unpaid tax for an interim prepayment period, it will collect the unpaid tax amount within two months therefrom.

- (2) Where there are amounts of corporation tax payable as a result of an adjustment or a determination of the tax, the government will collect the tax amount according to the procedures prescribed in the National Tax Collection Law.
- (3) Where a tax withholding agent has failed either to collect the amount of tax due or to pay the amount of tax collected within the payment period, the government will collect from the tax withholding agent, the collectible amount as corporation tax according to the procedures prescribed in the National Tax Collection Law without delay.

11. Withholding Tax

A person paying the following income to a domestic corporation is required to withhold corporation tax on the income at the prescribed tax rates at the time of such payment, and pay it to the government by the 10th of the following month.

- (1) Interest income
 - (a) Interest prescribed by the Income Tax Law: 14%
 - (b) Interest from a non-commercial loan: 25%
- (2) Distribution of profit from securities investment trusts: 14%
 - * If a trust fund receives interest income and a discounted amount on debentures or securities, it should be treated as a corporation with respect to tax withholding.

12. Penalty Tax

A penalty tax for failure to meet the prescribed obligations is added to the tax due.

a. Penalty Tax for Failure to Maintain Adequate Books and Records or File Returns

Where a corporation has failed to file returns or where the obligation of bookkeeping has not been met, the penalty tax equal to 20% of the calculated tax

amount determined by the government, or an amount equivalent to 0.07% of the amount of gross receipts, whichever is greater, is imposed. It should be noted that the penalty tax for the failure to maintain books and records does not apply to non-profit corporations.

b. Penalty Tax for Understatement of Income

When a taxpayer fails to accurately report his tax amount due, he or she is subject to the penalties described below.

- (i) If the under-declared amount is more than one-third of the tax base and an "unjustifiably under-reported tax amount" as prescribed by the Presidential Decree exceeds 5 billion won, 30% of the tax amount due on the under-declared amount is to be the penalty payment. However, if the tax amount due represents less than 0.1% of the gross receipts or is zero, 0.1% of the gross receipts will be considered as the amount due.
- (ii) In other cases, 10% of the tax amount due on the under-declared amount (20% of "unjustifiably under-reported tax amount") will be considered the penalty. If the calculated tax amount is zero, then this rule does not apply.

c. Penalty Tax for Non-Payment or Insufficient Payment

Where the corporation tax has not been paid in full or in part, the penalty tax is an amount equivalent to 0.03% per day of the amount of corporation tax unpaid or left to be paid.

d. Penalty Tax for Failure to Withhold Tax

- (1) Where tax withholders have failed to withhold tax at the source or have failed to pay the withheld tax to the government within the payment period, the penalty tax applied is the larger of
 - i) An amount that multiplies 0.03% by the number of unpaid days (limited to 10% of unpaid tax)
 - ii) An amount equivalent to 5% of unpaid tax.
- (2) Exceptions are made where the tax withholder is the government, local autonomous bodies

e. Penalty Tax for Failure to Submit Consolidated Financial Statements

Where a domestic corporation fails to submit its consolidated financial statements to the appropriate tax office, the greater amount of: (i) 2% of the reported tax amount or (ii) 0.008% of the gross receipts recorded in the same fiscal year shall be added as penalty tax to the corporation income tax.

f. Penalty Tax for Failure to Receive Verifying Documents

Where a corporation (except those exempted under the Presidential Decree) is provided with goods or services in connection with the business and does not collect verifying documents required, the corporation is subject to penalty tax equivalent to 20% of the uncollected amount surcharged on corporate income tax, except as otherwise provided in the article. Even when the taxable amount is zero, the penalty tax is still to be paid.

g. Penalty Tax for Failure to File a Stock Transfer Status Sheet

If a corporation fails to file a stock transfer status sheet by the due date, or if it is filed by the corporation with incorrect information or omissions of required information, a penalty of 2% of the total par value of the stocks not reported shall be imposed. In case where the corporation files the sheet within 1 month after the due date, the penalty amount will be reduced by 50%.

h. Penalty Tax for Failure to Meet Reporting Obligation

Where a corporation has failed to submit a payment statement or where the details of transactions submitted by the company are found to be unclear, an amount equivalent to 2% of the amount of the transactions in the reports not submitted or unclear is assessed as penalty tax. In case where the corporation submits the statement within 1 month after the due date, the penalty amount will be reduced by 50%.

i. Penalty Tax for Failure to Submit Receipts

The head of each of the local tax offices is responsible for surcharging 1% of receipts in question as a penalty tax on the corporation tax in the following situations 1 and 2 (In case where the receipts in question are submitted within 1 month after the due date, the penalty amount will be reduced by 50%). Even where the corporation does not have any tax amount liable, it still must pay the surcharged penalty tax. When situation 2 applies to a certain corporation, situation

1 does not apply to the same corporation and the exception can be made to the situation where additional tax is imposed in accordance with the Value Added Tax Article 22, situations 2 through 4.

1. A corporation does not issue tax invoices, or the tax invoices contain missing or incorrect information;
2. A corporation fails to submit an aggregate summary of tax invoices classified by sales place and purchase place by January 31 of the following year, or the tax invoices do not contain items as required by the Presidential Decree.

13. Bookkeeping

Corporations liable to tax payment shall keep account books by double entry bookkeeping method and shall prepare and keep important documents verifying the account books. Non-profit corporations have the same duty in case where they run a profit-making business set forth in the Corporation Tax Law.

14. Taxation of Liquidation Income

a. Tax Base and Tax Amount

(1) Calculation of tax base

The tax base of corporate income on the liquidation income of a domestic corporation is the amount of liquidation income.

(a) Liquidation income from termination of business

- i) For the dissolution of a domestic corporation, the amount of liquidation income is the amount remaining after the deduction of the aggregate of paid-in capital or investment and surplus as of the date of dissolution from the value of residual assets of the said corporation after the dissolution.
- ii) The value of residual assets is the amount remaining after deduction of total liabilities from total assets.

(b) Liquidation income from corporate merger

Liquidation income of merged corporation is the amount remaining after deducting the total amount of the merged corporation's capital as of the date of the merger of the corporation from the aggregate value of compensation from the newly created corporation.

(c) Liquidation income from corporate division

In the case of a division of a domestic corporation, liquidation income is the amount remaining after deducting the total amount of capital as of the date of the division of the corporation from the aggregate of the value of stocks and investments of the surviving corporation, or the cash and value of other property received by stockholders, members, or investors of the divided corporation.

(d) In calculating liquidation income, refundable corporation tax is added to the total amount of capital, and the carried-over deficit is offset against the total amount of capital.

(e) In calculating liquidation income, the provisions regarding calculation of income of a domestic corporation during each business year are also applicable *mutatis mutandis* except where otherwise provided thereof.

(2) Calculation of taxable amount

Corporation tax on the liquidation income of a domestic corporation is the amount calculated by applying the tax rates (13% or 25%) to the income of the domestic corporation for each business year.

b. Tax Returns and Payment

(1) Tax returns

(a) Report on Liquidation Income

- i) A domestic corporation in liquidation due to dissolution shall file a return thereon within three months from the date of the determination of the value of the residual assets.
- ii) In the case of a merger of a domestic corporation, the corporation shall file a return thereon within three months from the date of the registration of the merger.
- iii) In the case of a division of a domestic corporation, the corporation shall file a return thereon with the government within three months from the day following the date of the registration of the division.

iv) In filing a return, the balance sheet of the dissolved corporation and other necessary papers shall be attached thereto.

(b) Interim report on liquidation income

In cases where residual assets of a dissolved corporation are distributed to shareholders before the value of the residual assets are not determined or where the value of residual assets are not determined until the end of one year after the registration date of dissolution, the corporation in question shall file an interim tax return within one month.

(2) Payment of tax

- (a) A domestic corporation liable to file a return on liquidation income shall pay the government, within the reporting period, an amount of corporation tax on the liquidation income.
- (b) Where a domestic corporation which is liable to file an interim report on liquidation income has residual assets that exceed the total amount of its capital as of the date of dissolution, it shall pay the government, within the reporting period, an amount of corporation tax on the excess amount.

c. Determination, Adjustment and Collection

(1) Determination and Adjustment of tax base and tax amount

- (a) Where a domestic corporation has failed to file a tax return by the end of the reporting period, the government shall determine the tax base and corporation tax due on the liquidation income.
- (b) If the contents of the tax return appear to the government to be unreasonable, the government shall correct the tax base and corporation tax due on the liquidation income.
- (c) Where the government has found any omissions or errors in the tax base and tax amount after the determination or an adjustment thereof, it shall immediately re-adjust the tax base and tax amount thereon.

(2) Notice

When the government has determined or corrected the tax base and tax amount, it shall serve a notice thereon to the concerned corporation or its liquidators.

(3) Collection

- (a) Where a domestic corporation has failed to pay all or part of the corporation taxes payable upon liquidation, the government shall collect the unpaid corporation tax within two months from the end of the payment period.
- (b) Where there are amounts of corporation tax payable due to adjustment or determination by the government, the government shall collect the outstanding corporation tax.
- (c) With respect to liquidation income, penalty taxes on income of a domestic corporation for each business year are applied *mutatis mutandis*.

15. Taxation of Foreign Corporation

a. General

- (1) A foreign corporation is liable to corporation tax only on income derived from sources within Korea. However, no corporation tax is levied on the liquidation income of a foreign corporation.

Corporation tax on income from domestic sources by a foreign corporation is assessed and collected in the same manner as that applied to a domestic corporation. With respect to the income from domestic sources by a foreign corporation which has no domestic permanent establishment, the full amount of corporation tax withheld thereon at source is payable to the government.

- (2) The provisions of tax laws with respect to calculation of taxable income and tax amount, assessment, collection tax withholding, and reporting for domestic corporations are applicable *mutatis mutandis* to foreign corporations having a domestic place of business. However, any special provisions regarding foreign corporations are preferentially applied thereto.

b. Tax Base

(1) Foreign corporation with a domestic permanent establishment

The corporation tax base on income for each business year of a foreign corporation with a permanent establishment, or real estate income in Korea is the amount of income for each business year remaining after the successive deduction of the following items from the gross income from domestic sources.

- (a) An amount of deficits (limited to carried-over deficits incurred in Korea) carried-over from the business year which began within 5 years before the beginning day of each business year, which has not been deducted in the calculation of income amounts or tax base in each subsequent business year
- (b) Non-taxable income under the Corporation Tax Law and other laws
- (c) Income from the navigation abroad of vessels or aircraft, provided that the foreign country in which the head office or main office of the said foreign corporation is located grants the same tax exemption on vessels or aircraft operated by Korean corporations

(2) Foreign corporation without a domestic permanent establishment

- (a) Items of income derived by a foreign corporation without a permanent establishment in Korea shall be subject to tax separately, i.e., the income items are not to be aggregated.
- (b) Even in the case of a foreign corporation without a domestic permanent establishment, income from the navigation of vessels or aircraft abroad is, on a reciprocal basis, deducted from the income from domestic sources.

c. Income from Domestic Sources

(1) Interest income

Interest and discount received on bonds or securities (excluding interest on deposits and profits received from a trust abroad) and other profit from a trust or non-commercial loan as prescribed by the following sub-paragraphs shall be regarded as domestic source income. However, interest paid on funds borrowed directly by a Korean resident's permanent establishment (PE) in a foreign country or a

Korean corporation for its business outside Korea shall not be counted as a part of the domestic source income.

- Interest paid by a state or local government, a resident, a domestic corporation of Korea, a foreign corporation's PE in Korea, or a non-resident's PE in Korea

- Interest received from a foreign corporation or a non-resident, of whom a PE in Korea included the amount of such interest paid of its deductible expenses as necessary expenses effectively related to its operation

(2) Dividend income

Dividends of profits, distribution of surplus, and interest received from domestic corporations or non-corporate entities

(3) Real estate income

Real estate income arising from the transfer, lease, and any other operation involving real estate in Korea (including rights to the real estate) and mining rights, mining lease-holding rights or quarrying rights acquired in Korea, except income subject to capital gains tax

(4) Income from lease of vessels, aircraft

Income arising from the lease of vessels, aircraft, registered automobiles, or heavy equipment to residents, domestic corporations, or the business places in Korea of non-residents and foreign corporations

(5) Business income

Income from the livestock industry, forestry, fisheries, mining, quarrying, manufacturing, electricity, gas and water services, construction, forwarding and communications, banking and insurance, real estate dealing, professional services(excluding personal service income)

(6) Personal service income

An amount receivable as payment* for furnishing or having others utilize personal services as follows:

(a) services provided by movie and drama actors, musicians, or other

- public entertainers;
- (b) services provided by professional athletes;
- (c) services provided by lawyers, certified public accountants, architects, surveyors, patent lawyers, or other similar professionals;
- (d) services provided by persons having expertise or special skills in science and technology, business management and other similar fields, with the utilization of such expertise or skills.

*Actual reimbursement of airfare, accommodation fees or meal expense is excluded from personal service income

(7) Capital gains

Gains on transfer of land, buildings, and other assets located in Korea

(8) Royalties

Royalties, rent, or any other compensation of similar nature receivable as a consideration for the use of the following assets or technical expertise within Korea, or for the right to use such expertise, and income from the transfer of said assets or technical know-how.

- (a) Copyright on academic or artistic works (including films), patent rights, trademarks rights, designs, models, drawings, secret formulae or processes, films and tapes for radio and television broadcasting, and any other similar assets or rights
- (b) Information on industrial, commercial or scientific knowledge, experience, or skill
- (c) Industrial, commercial, or scientific machines, equipment, devices and fixtures

(9) Gains from the alienation of securities or shares

Where a foreign shareholder without a permanent establishment in Korea derives gains from the alienation of marketable securities issued by a domestic corporation constituting 25% or more of the total

voting shares of that company, the gain is subject to withholding tax. If the shares constitute less than 25% of the total voting shares, then the gains are not subject to withholding tax.

In the case of the transfer of marketable securities which the foreign company held through a partnership, whether the company passes the 25% shareholding test or not will be determined based on the partnership's shareholding in the domestic company concerned rather than based on the foreign company's shareholding.

(10) Other Income

- (a) Insurance money, compensation money, or compensation for damages received in connection with real estate or other assets located in Korea, or those related to businesses conducted in Korea
- (b) Money, goods, or other economic benefits received as a prize from contests held in Korea
- (c) Income from sale of treasure found within Korea
- (d) Income from the assignment within Korea of rights established by license, permission, or other similar disposition under the Korean law, or from the transfer of property located in Korea at the time of transfer, other than real estate
- (e) Money or goods received as a prize in a lottery, drawing, or any other contest, including the purse payable to the buyer of a winning ticket for horse racing, cycle racing, motorboat racing, bull fighting and sports betting game
- (f) Income other than those described above, arising from a business operated in Korea or the provision of personal services in Korea; in addition, this subparagraph includes economic benefits received in connection with assets in Korea (Note that if the amount received from the redemption of bonds issued by the government or banks established under the laws of Korea in a foreign currency exceeds the face value of such bonds in foreign currency, the balance in value shall not be included under this section.)

d. Calculation of Income from Domestic Sources

- (1) Foreign corporation with a domestic business place

Total amount of gross income from domestic sources for each business year of a foreign corporation which has a domestic business place or real estate income is calculated by applying the provisions regarding the calculation of the tax base of a domestic corporation *mutatis mutandis*. In particular:

- (a) losses are limited to those which are rationally allocated to an amount of income and a value of assets related to income from domestic sources;
- (b) reserves set aside for retirement allowances are limited to those for employees of the respective foreign corporation employed in Korea for the businesses operated by the foreign corporation in Korea, serving permanently at a domestic business place or at the location of its real estate;
- (c) corporation tax, inhabitant tax, fines, minor fines, non-penal fines, penalty tax, disposition fees for tax in arrears, and public imposts which are not counted in losses, including those imposed under foreign laws and regulations;
- (d) fixed assets eligible for depreciation are limited to fixed assets for the business owned in Korea, among fixed assets of the respective foreign corporation;
- (e) if a domestic business place ceased to exist in a business year before receiving all amounts due on a deferred payment or installment arrangement, that portion of the sales or disposition price not yet received, and related costs, shall be included in gains and losses, respectively, in said year;
- (f) deferred assets are limited to those of the foreign corporation in question, which are vested either in the business operated in Korea or in the assets owned in Korea;
- (g) where a foreign corporation with a domestic business place operates an international transportation business by vessels or aircraft, income from that in Korea is calculated based on revenue and expenses incurred in connection with passengers or cargo originating from Korea, the value of fixed assets for business in Korea, and any other sufficient factors for determining the degree of contributions by its domestic business to the income from the transportation business in question; and
- (h) in granting a tax credit to a foreign corporation for loss from disaster, the total value of assets for business is the total amount said corporation has in Korea.

(2) Foreign corporation without a domestic permanent establishment

Income from domestic sources of a foreign corporation without a domestic business place in Korea for each business year is computed separately by the type of income arising from sources in Korea.

e. Domestic Permanent Establishment

(1) Where a foreign corporation in Korea has a fixed place as described in the following, it is deemed to have a domestic business place:

- (a) branch, sub-branch, office, or any other business office;
- (b) store and any other fixed sales place;
- (c) workshop, factory, or warehouse;
- (d) a building site, a location of construction, assembly or installation work, or a place for providing supervision service for such work which exists for more than 6 months;
- (e) a place for providing services through an employee for a period exceeding 6 months in aggregate out of consecutive 12 months; or
- (f) a mine, quarry, or any other place of extraction of natural resources.

(2) A fixed place for a domestic business does not include the places such as:

- (a) fixed place used by a foreign corporation only for the purchase of assets;
- (b) fixed place used by a foreign corporation only for the storage or custody of non-salable property;
- (c) fixed place used by a foreign corporation for advertisement, public relations, collection and furnishing of information, market surveys and other activities of a preparatory or auxiliary nature for business performance;
- (d) fixed place used by a foreign corporation only for the purpose of having others process its assets.

(3) If a foreign corporation without a fixed business place in Korea operates a business through a person in Korea (one who is authorized to conclude contracts on the company's behalf and habitually exercises that authority, or any other similar persons enumerated under the following), it is deemed to have a permanent establishment in Korea.

- (a) Persons who constantly store assets of foreign corporations and customarily distribute or deliver them on orders from customers
- (b) A broker, general commission agent or other independent agent who conducts an important part of sales such as the closing of a contract on behalf of a foreign corporation, as long as the business is entirely or almost entirely devoted to that foreign corporation
- (c) Persons who collect insurance premiums (including reinsurance) on behalf of a foreign corporation
- (d) Foreign corporations indicated above include major stockholders of the foreign corporation in question, other corporations of which the foreign corporation in question is a major stockholder, and other persons having special relations with the foreign corporation in question.

f. Tax Rates, Returns, Payment, Determination, Adjustment, and Collection

(1) Tax rates.

Corporation tax on the income for each business year of a foreign corporation which has a domestic business place or real estate income is calculated by applying the same tax rates as those applicable for a domestic corporation on the tax base.

(2) Return, payment, determination, adjustment and collection

(a) With respect to tax return filing, tax payment, determination, adjustment, and collection of corporation tax on the income for each business year of a foreign corporation with a domestic business place or real estate income, the provisions for a domestic corporation are also applicable *mutatis mutandis*.

(b) Where a foreign corporation that is required to file a return on its tax base is unable to do so within the return period due to the following reasons, it may extend the return period with the approval from the government.

- i) Disasters and any other unavoidable occurrences
- ii) Failure to finalize the settlement of accounts at the head or main office

(c) The tax payment location of a foreign corporation with a domestic business is the place of its business or that of relevant real estate within Korea.

(3) Foreign companies deriving in Korea income from lease of vessels

or aircraft, business income, personal service income, wage & salary income, retirement income, royalties or capital gains from securities (interest and dividends excluded) or their withholding agent who submitted a wage and tax statement within the statutory deadline may request a reassessment of the tax base and the tax amount within 3 years from the end of the deadline.

g. Tax Withholding on Foreign Corporation

(1) Withholding Rate

(a) A person paying an amount of income from domestic sources to foreign corporations (except foreign corporations having capital gains from real estate which is subject to the same taxation rule as that applicable to capital gains from real estate derived by domestic company) not attributed to a domestic business place shall withhold as corporation tax at the source of income an amount enumerated as follows upon making the payment, and pay it to the government by the tenth day of the following month.

i) Business income and income from lease of vessels, aircraft, etc.: 2% of the amount payable

ii) Personal service income: 20% of the amount payable

*Actual reimbursement of airfare, accommodation fees or meal expense is excluded from personal service income. Despite the separate taxation provisions on personal service income, the taxpayer may also elect to include income from the rendering of personal service less such amount reimbursed in domestic-source income when filing his/her income tax return in Korea.

iii) Interest income*, dividend income, royalties, and other income: 25% of the amount payable

* Interest derived from bonds issued by the State, local authorities and domestic companies is subject to 14% of withholding tax rate.

iv) Gains from the transfer of securities or shares: 10% of the amount payable (However, where the acquisition value of securities or shares can be confirmed, the amount of withholding tax at source is 10% of the amount payable or an 25% of an amount remaining after deducting the acquisition value from gains, whichever is less.)

(2) Tax Withholding by Agent

- (a) In the case where securities or shares are transferred to a foreign corporation through a securities company, the securities company shall withhold the corporation tax and pay it to the government at the residence place of the domestic corporation (or the domestic business place of the foreign corporation) which issued the securities or shares.
- (b) If a foreign corporation transfers securities of the same issue whose acquisition costs are different, a securities company shall compute the acquisition value of the securities sold by using the moving average method.
- (c) Any person paying an amount of income from domestic sources (limited to business income, personal service income, interest income, and royalties) with a foreign loan to any foreign corporation having no domestic business place shall withhold tax at the source at the time the income is paid under the payment terms of the contract, even in the case where he or she does not directly pay such an amount of income under the terms of the contract in question.
- (d) Where an agency in Korea of foreign corporation, operating vessels or aircraft in services abroad that do not come under a domestic business place, pays the foreign corporation income from the service of vessels or aircraft navigating overseas, it shall withhold tax on the income earned by the corporation from domestic sources.
- (e) Where a person subject to tax withholding pays the corporation tax withheld at source after the lapse of the payment period, has not paid the tax within the period or has not withheld the tax at source, he or she shall pay a penalty tax amounting to 10% of the tax amount unpaid or not withheld.
- (f) Where a foreign corporation engages in construction, installation, assembly projects, or supervisory services in Korea, it is subject to withholding tax for income arising from these enterprises if the foreign corporation is not registered with the appropriate tax authority.

h. Branch Tax

If the tax treaty between Korea and the country of which the foreign corporation is a resident allows imposition of branch profit tax, the 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.

Branch profit tax will be imposed at 25% (or at a reduced rate ranging from 5% to 10% as provided in the treaty) on the adjusted taxable income of the foreign corporation (effective from the taxable year that begins on January 1, 1996).

*The adjusted taxable income for each business year is calculated as follows:

Earnings of the business year concerned less (corporation tax due & resident tax due thereon + portion of the earnings acknowledged to be reinvested in branch operations (i.e. increase in Korean net equity)* + non-deductible amount under the Law for the Coordination of International Tax Affairs)

*Net equity is calculated by subtracting Korean liabilities from Korean assets. There is an increase in net equity, if the net equity as of the close of the business year concerned exceeds the net equity as of the start of that business year. There is a decrease in net equity, if the net equity as of the start of the business year exceeds the net equity as of the close of that business year. In case of the termination of business of the Korean branch, the net equity as of the close of the business year is deemed to be zero.

Chapter IV: Inheritance & Gift Tax

1. Inheritance Tax

a. Taxpayer

- (1) A person or a company that acquires property through inheritance or bequest is liable to the Inheritance Tax.
- (2) An inheritor that is a for-profit company is exempt from the Inheritance Tax.

b. Tax Base

- (1) From the date of the commencement of the inheritance, the following are deemed taxable inheritance or bequest:
 - (a) bequeathed property;
 - (b) donated property transferred upon the death of the bequeathed;
 - (c) property donated to the inheritor within ten years of the date of the commencement of the inheritance; or
 - (d) property donated to legal persons other than the inheritor within five years of the date of the commencement of the inheritance.
- (2) The inheritance tax covers:
 - (a) all property bequeathed by a resident; and
 - (b) all property in Korea bequeathed by a non-resident.

c. Deductions

- (1) Public imposts
- (2) Funeral expenses between 5 million and 10 million won (with an additional deduction of 5 million won if usage fees of burial chamber arise)
- (3) Debts left by the bequeathed of the inheritance or legacy for which the inheritor is able to prove that he or she is to assume the responsibility to pay upon the commencement of the inheritance

d. Itemized Deductions

(1) Basic deduction

General: 200 million won

(2) Additional deductions

Inherited family businesses:

(a) For amounts 200 million won or less, the total amount of the inherited business is deductible

(b) For amounts more than 200 million won and 1 billion won or less, 200 million won is deductible

(c) For amounts more than 1 billion won, the lesser amount of 20% of the inherited business or 3 billion won

Inherited farms, fisheries, and forestry: up to 200 million won

(3) Deductions for dependents

30 million won per person

(4) Deductions for minors

Where the inheritor or legatee, or a family member of the inheritor or legatee is a minor, an annual deduction of 5 million won is granted to the minor until he or she becomes 20 years old. There is no limitation on the number of deductions granted to one family.

(5) Deductions for the elderly

Where the inheritor or legatee, or a member of the inheritor or legatee's family is over 60 years old, a -deduction of 30 million won is granted to that person (not applicable to inheritor or legatee's spouse). There is no limitation on the number of deductions granted to one family.

(6) Deductions for the disabled

In the case where the inheritor or legatee, the spouse of the inheritor or the legatee, or a member of the family of the inheritor or legatee is disabled, an annual deduction of 5 million won is granted to that person until he or she becomes 75 years old. There is no limitation on the number of deductions granted to one family.

e. Lump-Sum Deductions

- (1) The taxpayer has the option to select itemized deductions (excluding additional deductions) or a lump-sum deduction.
- (2) Lump-sum deduction
General: 500 million won

f. Deductions for Spouse

Where the bequeathed is a resident, the actual amount inherited by his spouse is deductible. This deduction is allowed for amounts that fall within the range of 500 million won to 3 billion won. If the amount inherited is less than 500 million won, the entire amount is tax deductible.

g. Deductions for Financial Assets

- (1) Where net financial assets are a part of the inheritance, the following amounts are allowed as deductions.
 - (a) For amounts less than 20 million won, the total amount of the inherited net financial assets (financial assets - financial debt)
 - (b) For net amounts that fall within the range of 20 million won and 100 million won, 20 million won
 - (c) For net amounts that exceed 100 million won, 20% of the total inherited financial assets (However, only deductions up to 200 million won are allowed.)

h. Deductions for Losses

- (1) Deductions for Losses Incurred as a Result of Natural Disasters and

Other Unforeseeable Circumstances

Deductions are allowed for fires, collapse of buildings, explosions, environmental pollution, natural disasters, etc., which affect the inherited property. They are allowed for an amount equivalent to that of the loss incurred.

i. Tax Rates

Tax base	Tax rates
Not more than 100 million won	10%
100 million won - 500 million won	10 million won + 20% X the excess over 100 million won
500 million won - 1 billion won	90 million won + 30% X the excess over 500 million won
1 billion won - 3 billion won	240 million won + 40% X the excess over 1 billion won
More than 3 billion won	1.04 billion won + 50% X the excess over 3 billion won

j. Inheritance Tax for Bequests that Skip a Generation

Where one designates a grandchild as the beneficiary of a bequest, surtax amounting to 30% shall be levied as inheritance tax.

k. Tax Credits

(1) Gift Tax Credit

A gift tax credit is granted for a gift property that is included as a part of the inheritance property.

(2) Foreign Tax Credit

A foreign tax credit is granted to the tax amount paid to a foreign country as an inheritance tax.

(3) Credit Granted for Inheritances that are successively passed through the Generations in a Short Period of Time

If the inheritance property is passed onto the second generation within 10 years of the commencement of the inheritance for the first generation, a progressive credit is granted to the second generation inheritor or legatee of the inheritance property.

Period of Inheritance	Rate of Progressive Credit
Within 1 Year	100%
Within 2 Years	90%
Within 3 Years	80%
Within 4 Years	70%
Within 5 Years	60%
Within 6 Years	50%
Within 7 Years	40%
Within 8 Years	30%
Within 9 Years	20%
Within 10 Years	10%

(4) Credit Granted for Correct Tax Returns

A 10% credit is granted to those taxpayers that submit their tax returns on time.

I. Tax Returns and Payment

(1) Tax Returns

A person who acquires property by inheritance, bequest, or gift must file a tax return within 6 months after the commencement of the inheritance or gift, together with detailed statements about the amount to be deducted. The government determines the taxable value based on the tax return filed.

(2) Cash Payment

Payments can be made in cash installments for twelve years from

three years after the acquisition.

(3) Payment in Assets

Where the portion of the real estate or securities out of the gift property is more than 50% and the inheritance tax exceeds 10 million won, it is possible to pay by a transfer of real estate or securities.

m. Valuation of Inherited or Donated Properties

(1) In principle, inherited and donated properties are assessed by the market price prevailing at the time of inheritance or donation.

(2) The following methods of valuation are applied when the market price is not available.

(a) Land: Official land value set for an individual piece of land

(b) Buildings: Standard market value set by the NTS

(c) Stocks:

(i) Listed stocks: 4-month average market price, 2 months before and 2 months after the transaction

(ii) Over-the-counter stocks: 4-month average market price, 2 months before and 2 months after the transaction

(iii) Unlisted stocks:

Assessed by considering the higher of Net Asset Value or Profit Value, where:

Net Asset Value = Net Asset Amount / Total Stock Issued

and

Profit Value = The Weighted Average of the Net Profit Per Capita for the Last Three Years / Rate Determined by the NTS

n. Determination and Adjustment

The government shall determine and notify the inheritor or the legatee of an adjustment of the tax base and tax amount of the inheritance and gift tax within 6 months from the date of the tax return.

2. Gift Tax

a. Taxpayer

- (1) Resident donee is obligated to pay the gift tax.
- (2) Non-resident donee is obligated to pay a gift tax on the property acquired in Korea.
- (3) Where a donee is a for-profit company, it is exempt from the gift tax.

b. Tax Base

- (1) The following may serve as the tax base for a donee's gift property:
 - (a) all gift properties that may be changed to certain monetary or economic forms;
 - (b) the economic value of legal and actual rights to the gift property.

c. Exclusions

- (1) Property given by the nation
- (2) Property donated to political parties
- (3) Gifts of moderate value (i.e., for medical care and relief)
- (4) School fees, scholarships, etc., paid for as a gift
- (5) Property donated to the Nation or local governments

d. Deductions

In the case where the resident donee receives a gift from the following persons, he or she is granted a deduction (on condition that the combined amount to be deducted for the next 10 years and deductions from the following items does not exceed the sum in each following item):

- (a) spouse (for an amount up to 600 million won);
- (b) lineal family members (for an amount up to 30 million won for all persons except minors for whom an amount up to 15 million won is allowed);
- (c) other family members (for an amount up to 5 million won).

e. Deductions for Losses

Deductions for Losses Incurred as a Result of Natural Disasters and Other Unforeseeable Circumstances

Deductions are allowed for fires, collapse of buildings, explosions, environmental pollution, natural disasters, etc. that affect the gift property. They are allowed for an amount equivalent to that of the loss incurred.

f. Tax Rates

Tax base	Tax rates
Not more than 100 million won	10%
100 million won - 500 million won	10 million won + 20% X the excess over 100 million won
500 million won - 1 billion won	90 million won + 30% X the excess over 500 million won
1 billion won - 3 billion won	240 million won + 40% X the excess over 1 billion won
More than 3 billion won	1.04 billion won + 50% X the excess over 3 billion won

g. Gift Tax for Gifts that Skip a Generation

Where a donor designates a grandchild as his donee, surtax amounting to 30% of the gift tax concerned shall be levied.

h. Tax Credits

(1) Gift Tax Credit

A gift tax credit is granted for that part of a gift property that is included as part of another gift property.

(2) Foreign Tax Credit

A foreign tax credit is granted for a tax amount paid to a foreign country as a gift tax.

(3) Credit Granted for Prompt Tax Returns

A 10% credit is granted to those taxpayers that turn in their tax returns on time.

i. Tax Returns and Payment

(1) Tax Returns

A person who acquires gift properties is liable to file a tax return within 3 months after receiving the gift, together with detailed statements about the amount to be deducted. The government determines the taxable value based on the tax return filed.

(2) Cash Payment

Payment can be made in cash installments for five years.

(3) Payment in Assets

Where the portion of the real estate or securities out of the gift property is more than 50% and the gift tax exceeds 10 million won, it is possible to pay by a transfer of real estate or securities.

j. Valuation of Gift Properties

(1) In principle, gift properties are assessed based on the market price prevailing at the time the gift is presented.

(2) The following methods of valuation are applied when the market price is not available.

(a) Land: Official land value set for an individual piece of land

(b) Buildings: Standard market value set by the NTS

(c) Stocks:

(i) Listed stocks: 4-month average market price, 2 months before and 2 months after the transaction

(ii) Over the counter stocks: 4-month average market price, 2 months before and 2 months after the transaction

(iii) Unlisted stocks:

Assessed by considering the higher of Net Asset Value or Profit Value, where:

Net Asset Value = Net Asset Amount / Total Stock Issued

and

Profit Value = The Weighted Average of the Net Profit Per Capita
for the Last Three Years / Rate Determined by the NTS

k. Determination and Adjustment

The government shall determine and notify the donee of an adjustment of the tax base and tax amount of the gift tax within 3 months from the date of the tax return.

Part 3: Indirect Taxes

Chapter V: Value Added Tax

1. Taxpayer

a. Taxpayer

- (1) A person who engages in the supply of goods or services independently in the course of business, whether or not for profit, is liable to value-added tax.
- (2) Taxpayers include individuals, corporations, the government and local authorities, associations of local authorities, any bodies of persons, and unincorporated foundations of any other organizations are generally subject to Value Added Tax.

b. Registration

(1) Registration

A person who newly starts a business shall register the required particulars of each business place within twenty days from the business commencement date. The particulars may be registered before the business commencement date. Then the tax office having jurisdiction over the business place of the trader (hereinafter "the competent tax office") shall issue a business registration certificate to the trader concerned.

(2) Notification of change in status

A registered trader who has suspended or closed down the business or who has come to recognize a change in any of registered particulars is required to make a report without delay to the competent tax office. The same applies when a person who has registered prior to the planned business commencement date fails to actually start his business.

2. Taxable Period

a. General

The taxable period for VAT is divided into two.

- (1) First period: January 1 to June 30
- (2) Second period: July 1 to December 31

b. Taxable Period for Newly-Established Businesses

The initial taxable period for any person establishing a new business shall be from the starting date of the business to the last day of the taxable period which the starting date falls upon. Where registration is made prior to the commencement of business, the taxable period begins with the date of registration. In many instances, the commencement date of a business is set out in the Enforcement Regulations. For example,

- (1) manufacturing: the date when the manufacture of products begins;
- (2) mining: the date when the mining or collecting of minerals begins; and
- (3) others: the date when the supply of goods or services begins.

c. Taxable Period for Liquidating Business

The last taxable period for any trader liquidating business shall be from the beginning date of the taxable period upon which the closing falls to the date of closing.

d. Taxable Period for a Person who Waives the Right to Simplified Taxation

The taxable period for this case shall be from the starting date of the taxable period in which reporting of the waiver of simplified taxation takes place to the last day of the month in which such report is made. The other taxable period shall be from the first day of the month following the month in which the date of report falls on to the last day of the taxable period. These two taxable periods are separate.

3. Taxable Transactions

a. General

(1) Taxable transactions

Value added tax is imposed on the following transactions:

- (a) the supply of goods or services; and
- (b) the importation of goods.

(2) Range of goods and scope of services

(a) Range of goods

Goods under the Value Added Tax Law mean all tangible and intangible objects that have values as property. Tangible objects include commodities, products, raw materials, machinery, buildings, and other objects with tangible form. Intangible objects include motive power, heat, other controllable forces of nature, and rights.

(b) Scope of services

Services mean all services and other activities that have values as property, other than goods.

(c) Subsidiary supply of goods and services

The supply of goods or services that takes place necessarily accompanying the supply of goods that is treated as a primary transaction is deemed to be included in the primary supply of goods. The supply of goods or services that takes place necessarily accompanying the supply of services that is treated as a primary transaction is also deemed to be included in the primary supply of services.

b. Supply of Goods

(1) Taxable supplies of goods

A taxable supply of goods means delivery or transfer of goods under a contract or by law.

(2) Self-supplies of goods

Where a trader directly uses or consumes goods that are acquired or produced in the course of his or her business, such direct use or consumption except for the case of stock-in-trade to use or consume goods as raw materials, is deemed to be a supply of goods to the trader himself/ herself.

(3) Personal use and gifts

Where a trader uses or consumes goods produced or acquired in the course of the business for his or her personal use or for the

employees, or where a trader donates such goods to customers or other persons, such use, consumption, or donation is deemed to be a supply of goods.

(4) Inventory goods at the time of liquidation

Inventories owned at the time of liquidation of a trader's business are considered to be supplied to himself or herself. The same applies where a VAT-registered person fails to actually start a business.

(5) Transactions through a consignee or an agent

The sale or purchase of goods by consignee or agent is deemed same as if the consignor or the principal directly supplies the goods or the goods are supplied directly; however, the preceding provisions of this paragraph do not apply where the consignor or the principal cannot be identified.

(6) Offer of security and transfer of business

Offering goods as a security or alienating a person's business to any other person except for simplified taxpayers is not deemed to be a supply of goods.

c. Supply of Services

(1) Taxable supplies of services

A taxable supply of services includes the rendering of services or the leasing of goods or facilities, or the granting of rights under a contract or by law.

(2) Self-supplies of services

Where a trader directly provides services for his or her own business, such direct supply of services is deemed to be a self-supply of services.

(3) Services involving no consideration and services provided by employees

The rendering of services to other persons, without involving

any consideration or under an employment contract, is not treated as a supply of services.

d. Importation of Goods

Importation of goods includes carrying the following goods into Korea or from bonded areas:

- (1) goods arriving in Korea from abroad (including marine products gathered in high seas by foreign vessels); or
- (2) goods licensed for exportation.

e. Time of Transaction

- (1) Time of supply of goods

Goods are deemed to be supplied at the time as specified in the following:

- (a) In the case of the supply of goods that requires the goods to be moved: the time when they are delivered;
- (b) In the case of the supply of goods that does not require the goods to be moved: the time when they are made available; and
- (c) Where the provisions of items (a) and (b) are not applicable: the time when the supply of goods is confirmed.

- (2) Time of supply of goods in detail:

Goods are deemed to be supplied at the time as specified in the following. However, if the goods are supplied after the date of the closedown, the closedown date shall be regarded as the time of supply.

- (a) Cash or credit sales: the time when goods are delivered or made available
- (b) Sales made on long term installment payments: the time when each portion of the proceeds is stipulated as receivable
- (c) Supply of goods under terms of payment on percentage of work completed, or under terms of partial payments: the time when each portion of proceeds is receivable
- (d) Processing deemed to be a supply of goods: the time when the processed goods are delivered
- (e) Self-Supplies or the supply of services for personal use, or gift

purposes: at the time of consumption or use of the goods

- (f) Business closedown: the time of closedown
- (g) Goods supplied through vending machines: the time when the respective businessperson takes money from the machines
- (h) Other cases: when goods are delivered or deliverable
- (i) Exports: date of shipping
- (j) Where a businessperson within a bonded area supplies goods outside the bonded area in the country and the goods concerned fall under the category of imported goods: date of export declaration

(3) Time of supply of services

Services are deemed to be provided at the time as described in the following. However, if the time of supply of services comes after the closedown of the business, the date of the closedown shall be regarded as the time of supply.

- (a) Normal supply: when the services have been completely rendered
- (b) Providing services under the terms of payment based on the percentage of work completed, partial payment, deferred payment, or any other terms: when each portion of the payments is to be received
- (c) Where provisions (a) and (b) are not applicable: When services have been completely rendered and the value of the supply is determined
- (d) Regarding the deemed rent of deposit for real estate leasehold or advance or deferred payment of rent that a businessman pays upon leasing land, buildings, and other structures built on the land: when the preliminary tax return or the taxable period has been completed

(4) Deemed time of supply

Where a trader has received partial or full amount of the consideration for the supply of goods or services concerned and has issued a tax invoice or receipt for the payment before the time of supply as prescribed above, the time of issuance of the tax invoice/receipt is deemed to be the time of supply. However, in the case of

long-term installment sales or supplies with indivisible supply unit, the previous system is maintained.

f. Place of Transaction

(1) The place of supply of goods

A supply of goods is deemed to take place in the place as specified in the following:

- (a) in the case of the supply of goods which requires the goods to be delivered: the place where the delivery of goods commences;
- (b) in the case of the supply of goods which does not require the goods to be delivered: the place where the goods are located at the time of the supply of goods.

(2) The place of supply of services

A supply of services is deemed to take place in the place as specified in the following:

- (a) the place where services are rendered, or where goods, facilities or rights are used;
- (b) in the case of international transportation carried on by a non-resident individual or a foreign corporation: the place where passengers get aboard or freight is loaded.

4. Zero-Rating and Exemptions

a. Zero-Rating

The following goods and services are VAT zero-rated and the input tax incurred is refundable. Zero-rating is applicable only to traders who are residents or domestic corporations. However, in the case of international transportation service by ships or aircraft, traders who are non-residents or foreign corporations are subject to zero-rating on a reciprocity basis.

- (1) Goods for exportation
- (2) Services rendered outside Korea
- (3) International transportation service by ships and aircraft
- (4) Other goods or services supplied for foreign exchange earning

b. Exemptions

(1) The supply of the following goods or services is subject to exemption and the input tax incurred thereon is not refundable. However, traders may elect not to be exempted.

(a) Basic life necessities and services

- i) Unprocessed foodstuffs (including but not limited to agricultural products, livestock products, marine products, and forest products that are used for food) and agricultural products, livestock products, marine products, and forest products prescribed by the Presidential Decree that are produced in Korea but are not used for food
- ii) Piped water
- iii) Briquette and anthracite coal
- iv) Passenger transportation services, except for transportation services by aircraft, express buses, express train (KTX), chartered buses, taxis, special automobiles, or special ships

(b) Social welfare services

- i) Medical and health services (including services of veterinarians, nurses and midwives, and pharmaceutical services of compounding medicines and human blood)
- ii) Education services prescribed by the Presidential Decree

(c) Goods or services related to culture

- i) Books, newspapers, magazines, official gazettes and communication
- ii) Artistic works, artistic and cultural events for non-profit purposes, and non-professional sports games
- iii) Admission to libraries, science museums, museums, art galleries, or botanical gardens

(d) Personal services similar to labor

- i) Other personal services rendered independently without structures, instruments used continuously, repeatedly for

business (including ones rented) and without employing any worker by actors, singers, radio performers, composers, writers, designers, professional sportsmen, dancers, waitresses, salesmen of books or disks, translators, shorthand writers, etc.

- ii) Academic research services
- iii) Technical research services

(e) Other goods or services

- i) Postage stamps (excluding postage stamps for collection), revenue stamps, certificate stamps, lottery tickets, and public telephone cards
- ii) Such goods or services rendered by religious, charitable, scientific, or other organizations which promote the public interest
- iii) Goods or services supplied by the government, local authorities, or associations of local authorities
- iv) Goods or services supplied, without any consideration, to the government, local authorities, associations of local authorities, or public benefit organizations
- v) Lease of house or the land pertaining to the house of an area, which is not larger than 5 or 10 times the floor space of the house
- vi) Finance and insurance services

(f) Duty-exempt goods

Importation of the following duty-exempt goods under the Customs Law is exempted from value-added tax.

- i) Unprocessed foodstuffs (including agricultural products, livestock products, marine products, and forest products used for food)
- ii) Books, newspapers, and magazines
- iii) Goods imported for scientific, educational, or cultural use by a scientific research institute, an educational institute, or a cultural organization
- iv) Goods donated from a foreign country to a religious, charitable, relief, or any other public benefit organization

(2) Waiver of exemption

In the case where the supply of goods or services eligible for zero-rating is exempt from value-added tax, the traders may, subject to the Presidential Decree, elect not to be exempt from value-added tax. A trader who waives the ordinary exemption is not entitled to the exemption for 3 years after the beginning day of the first assessable year in which the waiver is intended to be applied.

5. Tax Base and Assessment

a. Tax Base

(1) Calculation of tax base

(a) Principle for calculating the tax base

The tax base of value-added tax for the supply of goods or services is an aggregate amount of the value as specified under the following. However, value-added tax is not to be included in the base.

- i) If the supply is for a monetary consideration, its consideration
- ii) If the supply is for a non-monetary consideration, its open market value
- iii) If the actual consideration is considered to be unduly less than that which might reasonably be expected or if there is no consideration, its open market value
- iv) In the case of the inventory goods at the time of the closing down of a business, the open market value of the inventory goods

(b) Conversion of foreign currency

Conversion methods for monetary consideration for foreign currency or other foreign exchange:

- i) In the case of conversion before the time of supply, the converted amount
- ii) In the case of conversion after the time of supply, an amount calculated based on the basic rate or cross rate of customers at the time of supply

(2) Special cases

- (a) In the case of sales in installments or sales on deferred payment

plans, the tax base is each part of the consideration receivable under the contract.

- (b) In the case of credit sales, the tax base is the total amount of supplied goods.
- (c) In the case of supply of goods or services on the condition of payment based on work completed, or interim payments, or in the case of continuous supply of goods or services, each part of the consideration receivable under the contract becomes the tax base.

(3) Tax base for self-supply

In the case of ordinary self-supply, the open market price of the goods is the tax base. However, in the case of self-supply of depreciable goods, the market price is one of the following.

(a) Buildings or construction structures

Tax Base = Acquisition Price X $(1 - 5/100 \times \text{Number of Taxable Periods Elapsed Following Acquisition})$

(b) Other depreciable goods

Tax Base = Acquisition Price X $(1 - 25/100 \times \text{Number of Taxable Periods Elapsed Following Acquisition})$

(c) Calculation of the number of taxable periods elapsed following acquisition

- i) If the goods are acquired (or if exempt from the value-added tax during a taxable period), the acquisition (or exemption) shall be deemed to have occurred on the commencement date of the taxable period.
- ii) The number of taxable periods elapsed applicable to the tax base is limited to 20 for buildings and construction structures, and four for other depreciable goods.

(4) Amounts included and not included in the tax base

(a) The following amounts are excluded from the tax base:

- i) amount of sales allowance,
- ii) value of returned goods,
- iii) value of goods broken, lost or damaged before they are delivered,

- iv) national or public subsidies excluding subsidies directly linked to the price of supply,
 - v) interest on late payment of consideration for the supply of goods or service as prescribed by the presidential decree, and
 - vi) discount on value of supply of goods or services after the supply thereof as prescribed by the presidential decree
- (b) The amounts of discount, bad debt, bounty or other similar amounts in relation to the value of supply after the supply of goods or services, is included in the tax base.

(5) Tax base for the importation of goods

The tax base for the importation of goods is an aggregate of the price on which customs duties are chargeable, the customs duties, the individual consumption tax, the liquor tax, the education tax, and the transportation·energy·environment tax thereon. The price on which the customs duties are chargeable is the normal arrival price (CIF price).

b. Tax Rates

(1) The current rate

The rate of value-added tax is 10%.

(2) Application of the tax rate

Where the tax rate is applicable on the VAT exclusive price, the 10% rate is applied. However, in the case of application on the VAT inclusive price of the retailers, the tax rate becomes 10/110. Where VAT is not separately collected at the time of the transaction, the tax rate of 10/110 is applicable on the VAT inclusive price.

c. Collection at Transaction

The value-added tax will be collected where a trader supplies goods or services. It is computed by multiplying the tax base to the tax rate.

d. Amount Payable

(1) Computation of tax amount

The amount of value-added tax is computed by deducting the input tax amount under the following items from the output tax amount chargeable on the goods or services supplied by the taxpayer. The input tax which exceeds the output tax is refundable.

- (a) The tax on the supply of goods or services that a trader has used or intends to use for his business
- (b) The tax on the importation of goods that a trader has used or intends to use for his business

(2) Input taxes not deductible

The input taxes are not deducted from the output tax where:

- (a) a trader has not received a tax invoice, has not submitted to the government an aggregate summary of the tax invoices of every individual supplier, has not recorded the whole or in part the necessary items to be recorded, or where the contents of the tax invoices are proved to be different from the facts (However, where a trader submits the tax invoice received with a revised return on the tax base under the Basic Law for National Taxes, or where a person whose tax base and tax amount payable or refundable are corrected by the head of a tax office submits to the government the tax invoice and sales slips of credit card and is certified by the head of the tax office, the input tax amount shall be deducted from the output tax amount.);
- (b) the input tax amount of expenses are not directly related to the business;
- (c) the input tax amount on the purchase, maintenance and leasing of small automobiles except for those used in transportation business;
- (d) the input tax amount on the supply of goods or services is exempted (including the input tax amount in relation to investment);
- (e) the amount of entertainment expenses or similar expenses are provided in the Presidential Decree; or
- (f) the input tax amount is levied at least 20 days before the

registration.

(3) Deemed input tax deduction

In the event where value-added tax is chargeable (e.g. where a trader who carries on all the taxable businesses supplies the goods produced or processed by using agricultural, livestock, marine, or forest products, the supply of which is exempted from value-added tax as raw materials), an amount that is computed by multiplying 2/102, (6/106 for the period from January 1st of 2007 to December 31st of 2008, and 3/103 in the case of restaurant businesses) may be deducted from the output tax amount.

(4) Bad debts tax deduction

In case where a taxable trader has supplied taxable goods or services on credit but could not collect the account receivables for the supply because the receiver of the supply has dishonored a bill, has become bankrupt, etc. and the trader has treated the account receivables as bad debts, the VAT on the goods or services should be arranged as follows (the scope of account receivables treated to be bad debts is the same as that under the Income Tax Law and the Corporation Tax Law).

(a) The supplier may deduct the uncollected VAT from the output tax amount for the VAT period on which the day of the determination of bad debts falls:

$$\text{- Deductible VAT} = \text{Bad Debts} \times 10/110$$

(b) The government shall collect the VAT amount already deducted from the supplier's output VAT from the person who received the supply.

e. Tax Invoice and Bookkeeping

(1) Tax Invoice

(a) Contents of invoice

When a registered trader supplies goods or services, he or she shall issue an invoice to the other party. The contents of the invoice shall contain:

i) the registration number and the name of the individual or corporation trader;

- ii) the registration number of the other party to the supply;
- iii) the value of the supply and value-added tax thereon;
- iv) the date, month and year of issuance of the tax invoice; and
- v) other particulars as prescribed by the Presidential Decree.

(b) Receipts

A trader who carries on businesses such as retail outlets, ordinary restaurants, hotels, passenger transport, etc. may issue a tax invoice in which the name of the other party to the supply and the amount of value-added tax are not recorded separately ("receipts").

(2) Bookkeeping

- (a) A trader is required to maintain accounting records of all transactions at each business place.

(b) Mixed transactions

Where a trader supplies exempt goods or services together with taxable goods or services, he or she should separately enter the transaction information into the books.

(c) Keeping record

A trader should keep the books in which the transactions are recorded and the tax invoices or receipts issued or received for a period of five years from the date of the final return for the taxable period in which the transactions are filed.

(d) Tax invoices for transactions through a consignee or agent

In the case of consignment sales or sales through an agent, the consignee or agent shall issue the tax invoice. Where the goods are delivered directly by the consignor or the principal the tax invoice shall be issued. In the case of consignment purchases or purchases through an agent, the supplier shall issue the tax invoice to the consignor or principal, In both cases, the registration number of the consignee or agent shall be recorded additionally in the invoices.

(e) Monthly issue of tax invoice

Where deemed necessary, the trader may prepare and issue a tax invoice by aggregating the total receivables of transactions of

all parties to the end of the month.

(f) Adjustment of tax invoice

Where there is an error or needs to make corrections in the submitted tax invoice after the issuance of the tax invoice, the trader shall re-prepare and re-issue the tax invoice.

(g) Exemption from obligations to issue tax invoice

Persons carrying on one of the following businesses are exempt from the obligation to prepare and issue tax invoices:

- i) self-supply of goods, personal use of goods, donation for a business purpose, supply at the time of closing down of a business, and self-supply of services; or
- ii) exportation of goods, supply of services abroad, and other specific supplies of goods or services earning foreign currency that are subject to zero-rating.

(h) Prevention of double issuance of tax invoice and credit card receipts

When a retailer issued credit card receipts, additional issuance of a tax invoice is not allowed.

(i) Tax invoice at the time of importation

When importing goods, customs collectors are required to prepare and issue tax invoices in accordance with the provisions of the Customs Law.

(3) Cash Register

(a) Installation

Traders who carry on retail businesses, ordinary restaurants, hotels, and other similar businesses shall install a cash register and issue tax invoices on which the consideration for the supply is recorded.

(b) Deemed bookkeeping and taxation on the basis of cash receipts

In the case where a trader issues tax invoices and keeps tapes of audit, he or she is deemed to have performed his obligation of bookkeeping and issuance of receipts. In relation to a taxpayer that has installed a cash register, value-added tax may be chargeable based on cash receipts.

6. Tax Returns and Payment

a. Preliminary Returns and Payment

- (1) A trader is required to file a return on the tax base and tax amount payable or refundable to the appropriate tax office within 25 days (50 days in case of foreign corporations) from the date of termination of each preliminary return period; the first preliminary taxable period is from January 1 through March 31, and the second preliminary taxable period is from July 1 through September 30.
 - (a) Notwithstanding the provisions above, an individual trader is required to pay the tax amount equivalent to half of that paid for the immediately preceding regular return period. Tax amount less than 100,000 won is not collected.
 - (b) If an individual trader whose tax amount to be reported under a preliminary return, due to the suspension of the business, business depression, or his or her wishes of an early refund, is less than one-third of the amount of tax paid for the immediately preceding regular return period, then the actual tax amount collected or refundable during the preliminary return period may be reported.
 - (c) An individual trader who has no tax amount payable for the immediately preceding year or who is establishing a new business during the preliminary return period shall report the actual tax amount collected (or refundable) during the preliminary return period.
- (2) A trader shall pay the tax amount payable for the preliminary return period to the appropriate tax office at the time of filing the return.
- (3) If a trader is approved as a taxable unit by the superintendent of the competent tax office of his or her main place of business, the trader shall sum up and report to the superintendent the tax returns for all business places.

b. Final Returns and Payment

- (1) A trader must file to the competent tax office a return on the tax base and the tax amount payable or refundable in respect of each taxable period within 25 days (50 days in case of foreign corporations) after the expiration of the taxable period concerned.

- (2) A trader is required to pay the tax amount payable to the competent tax office at the time of filing the return.
- (3) If a trader is approved as a taxable unit by the superintendent of the competent tax office of his or her main place of business, the trader shall sum up and report to the superintendent the tax returns for all business places.

c. Presentation of a Schedule of Summary of the Tax Invoices

- (1) A trader is required to submit an aggregate summary of the tax invoices classified by sales place and purchase place at the time of the preliminary return or final return. However, if prescribed by law or the Presidential Decree, a trader may submit the above documents at the time of the final return concerned.
- (2) A trader may submit to the competent tax office a schedule of tax invoices which he or she failed to submit at the time of filing each preliminary return and at the time of the final return for the taxable period in which the preliminary return period concerned falls upon.
- (3) Collectors of customs houses who issued tax invoices and the national and local authorities, associations of local authorities, or the other bodies that received tax invoices should, even if they are not liable to pay value-added tax, submit to the competent tax office a schedule of the tax invoices.

d. Payment Place

A taxable person is required to pay the value-added tax at each business place. However, in cases where a trader has more than two business places, he or she may pay the entire value-added tax at the main business place with approval from the competent tax office having jurisdiction over the main business place.

e. Reverse Charge

A person who receives supply of services from a non-resident or foreign corporation in case of (1) or (2) shall collect the VAT at the time of the payment for such services and pay the amount to the government, except in cases where services received are used in taxable operations.

- (1) A non-resident or a foreign corporation not owning a place of business in Korea
- (2) A non-resident or a foreign corporation with a permanent establishment supplies service not attributable and related to a domestic place

f. Tax Manager

- (1) Where an individual trader falls under any of the following categories, he or she should designate a tax manager to deal with the filing of tax returns, payment, refund and any other necessary matters, and report it to the competent tax office:
 - (a) where he or she is not normally stationed at the business place;
 - (b) where he or she intends to stay in other countries for a period of more than six months.
- (2) If a trader deems it necessary, he or she may designate a tax manager with certain qualifications to deal with the filing of tax returns, payment, refund and any other necessary matters.

7. Adjustments, Collection, and Refund

a. Adjustments

(1) Adjustments

Only in the following cases shall the competent tax authority reassess, through an investigation, the value-added tax base and tax amount payable or tax amount refundable for the taxable period:

- (a) when the final tax return is not filed;
- (b) when details of the final tax return are erroneous or have any omissions;
- (c) when filing the final tax return, a schedule of summary of the tax invoices has not been submitted in whole or in part;
- (d) in cases other than under (a) to (c), where value-added tax is likely to be evaded for the following reasons:

- i) when the place of business is changed frequently;
- ii) when the place of business is located in an area where places of business are deemed to change frequently;
- iii) when the business is in a state of suspension from operations or liquidation.

(2) Adjustment by estimation

In the case of a reassessment of tax amount payable or tax amount refundable for each taxable period pursuant to the provision of (1), the competent tax authority shall reassess them on the basis of tax invoices, accounting books, and any other evidence; however, in the following cases, the reassessment may be made by estimation:

- (a) when the tax invoices, accounting books, and any other evidence necessary for the calculation of the tax base are either missing or incomplete in major portions;
- (b) when details of the tax invoices, accounting books, and any other evidence are evidently false in view of the capacity of the facilities, number of employees, and the market prices of raw materials, commodities, products, or various charges;
- (c) when details of the tax invoices, accounting books, and any other evidence are evidently false in view of the quantities of raw materials used, electric power used, and other operating status.

b. Inquiry and Investigation

- (1) Where it is necessary to make an investigation, the tax officials concerned may make an inquiry into the related matters or investigate business records and articles related thereto.
- (2) Where it is necessary to preserve the right for value-added tax or to investigate the matters related thereto, the competent tax authority may order taxpayers to present business records and articles related thereto, and may request any other necessary materials.

c. Penalty Tax

Types		coverage	Applied amount	Penalty tax rate	Etc.,
① registration	Ⓐ Penalty tax for non-registration	In the case of non-registration	Supply price	1%	0.5% of supply price for simplified taxpayers
	Ⓑ Penalty tax for false registration	In the case of being registered under others' name	Supply price	1%	
② revenues	Ⓐ Penalty tax for non-issuance of tax invoice	In the case of non-issuance of tax invoice	Supply price	2%	
	Ⓑ Penalty tax for false tax invoice	In the case of issuing tax invoice without providing goods and services	Supply price	2%	
	Ⓒ Penalty tax for issuing tax invoice under others' name	In the case of issuing tax invoice under the name other than the supplier of goods and services	Supply price	2%	
	Ⓓ Penalty tax for incomplete tax invoice	In case where tax invoice contains omission or false information	Supply price	1%	
	Ⓔ Penalty tax for non-submission of aggregated tax	In case where aggregated tax invoice is not filed on a place	Supply price	1%	

	invoice on a place of sales basis	of sales basis			
	ⒻPenalty tax for incomplete tax invoice on a place of sales basis	In case where aggregated tax invoice contains omission or false information	Supply price	1%	
	ⒼPenalty tax for delayed submission of aggregated tax invoice	In the case of submitting estimated tax liability when filing confirmation report	Supply price	0.5%	
③purchase	ⒶPenalty tax for incorrect aggregated tax invoice on a place of purchase basis	ⒶIn case where supply price is inflated or false	Supply price	1%	
		ⒷIn the case of receiving tax invoice after issuance period			
		ⒸIn case where input tax deduction is allowed through tax invoice after authorities confirm revision claims			
	ⒹPenalty tax for false tax invoice	In the case of receiving tax invoice without getting goods and services	Supply price	2%	
	ⒸPenalty tax for receiving tax invoice	In the case of receiving tax invoice under the	Supply price	2%	

	under other's name	name other than the supplier of goods and services			
④	Penalty tax for incorrect filing of zero-rated tax base	In the case of non-reporting, underreporting and non-submission of necessary document	Supply price	1%	1% of supply price for simplified taxpayers
⑤	Exclusion of overlapping penalties	i) excluding ② – d e f g from ① ii) excluding ① ② – e f g, ③ – a from ② – a b c iii) excluding ② – d from ② – e f g iv) in the case of ⑤, excluding estimated tax liability upon confirmation reporting			
⑥	Reduction of penalty tax	i) in the case of reporting for correction within 6 months: penalty tax for underreporting and inflated refund reporting ii) in the case of late reporting within 1 month: penalty tax for non-reporting iii) in the case of late submission within 1 month: penalty tax for non business registration, for incorrect submission of aggregated tax invoice (on a place of sales basis) and for incorrect submission of bill			
⑦	Penalty tax for incorrect reporting and payment	Stipulated in national tax law			

d. Collection

- (1) Where a trader has actually paid the tax amount which is less than the returned tax amount, the competent tax office should, in such a manner as is used for the collection of national tax, collect the unpaid tax amount, or in the case of adjustment or correction, the additional tax amount payable.
- (2) Where a trader has failed to file a preliminary return, or has filed

an incorrect or incomplete return, the competent tax office may investigate and determine the tax base and tax amount and collect the tax amount due.

- (3) Collectors at customs houses collect value-added tax in such a manner as is used for the collection of customs duties.

e. Refund

- (1) Ordinary refund

The competent tax office refunds to a trader the tax amount refundable for each taxable period concerned based on each taxable period.

- (2) Early refund

Where a trader falls under any of the following categories, the competent tax office may refund the tax amount refundable to the trader within 15 days from the ending date of the preliminary return:

- (a) in the case of zero-rate;
- (b) in the case where a trader newly establishes, acquires, expands, or extends the business facilities.

8. Simplified Taxation

a. Individuals Eligible for Simplified Taxation

VAT is chargeable on the basis of turnover for a trader whose turnover (or proceeds including VAT) of the supply of goods or services during the immediate preceding year is less than 48 million won (called "a trader eligible for simplified taxation"). However, a trader engaged in mining, manufacturing, professional business such as lawyers, accountants, entertainment business subject to individual consumption tax, wholesale, or real estate sales business shall be excluded from the range of a trader eligible for simplified taxation.

b. Tax Base and Tax Amount

- (1) Tax base: turnover during the taxable period
- (2) Tax amount payable:

Tax amount payable = Aggregate amount of supply during the

concerned taxable period × Average rate of value-added as prescribed by the Presidential Decree for each category of business (ranging from 10% through 50%) × 10%

c. Tax Returns and Payment

(1) Return and payment period

A person eligible for simplified taxation is required to file a return and pay the tax amount due within 25 days from the end of the taxable period concerned.

(2) Presentation of tax invoices

A person eligible for simplified taxation should at the time of each final return submit the received tax invoices or a schedule of summary of tax invoices classified by place of purchase to the competent tax office.

d. Adjustment and Collection

(1) The tax base and tax amount payable of a person eligible for simplified taxation may be collected in the same manner as normal taxation.

(2) Regarding penalty tax and collection, penalty taxes related to tax invoice are not levied on. Additionally, penalty taxes for individual traders that fail to register are imposed an amount equivalent to 0.5% of VAT included consideration.

(3) Where the tax amount payable is less than 12 million won in a taxable period, the tax shall not be collected.

e. Waiver of Simplified Taxation

A person eligible for simplified taxation may elect to be taxed in the normal way, and if so, he or she must make a report thereon to the competent tax office.

Chapter VI : Individual consumption tax

1. Taxpayer

Any person who falls under one of the categories below is liable to individual consumption tax.

- a. A person who manufactures or imports taxable goods (e.g. slot machines, luxury furniture/carpet, or oil products)
- b. A person who sells Class 3 taxable goods (e.g. jewelry, pearls, etc. and its products, excluding diamonds for industrial use)
- c. Operators of such taxable places as horse race courses, bicycle race courses, slot machine clubs, golf courses, casinos, nightclubs, etc.

2. Tax Base

a. Tax Base

- (1) In the case taxable goods that are manufactured, the price or the volume at which the goods are taken out of the place of manufacture
- (2) In the case of importation, the price or the volume at the time of declaration (the sum of the customs value and the related customs duties levied thereon)
- (3) In the case of Class 3 taxable goods that are sold, the sales price
- (4) In the case of an admission to taxable places, the number of persons
- (5) In the case of the use of entertainment taverns or saloons, the amount of money charged

b. Amounts of individual consumption tax, education tax, and value-added tax are not included in the tax base.

3. Tax Rates

a. Taxable Goods

A) Class 1: 20%

- (a) slot machines, pin-ball machines, and other similar recreational machines; and

(b) hunting guns or rifles.

B) Class 2: 7%

(a) deer antlers and royal jellies; and

(b) perfumes and colognes

C) Class 3: 20% (The tax rate of 20% is levied on the excess of the sales price over two million won)

(a) jewelry (excluding diamonds for industrial use, unprocessed original stones), pearl, tortoise-shell, coral, amber, ivory, and their products; and

(b) precious metal products

D) Class 4:

The tax rate of 20% is levied on the excess of the sales price over two million won (five million won per piece or eight million won per set in the case of luxury furniture):

(a) luxury camera and accessories;

(b) luxury watches;

(c) luxury fur skin and its products (excluding rabbit skin and raw fur skin);

(d) luxury carpets; and

(e) luxury furniture.

E) Class 5:

(a) Automobiles with engine displacement in excess of 2,000 cc and cars for camping: 10%

(b) Automobiles with engine displacement of 2,000 cc or less (excluding

those with engine displacement of 800 cc or less), and two-wheeled motorcycles with engine displacement in excess of 125 cc: 5%

F) Class 6:

- (a) Gasoline: 630 won/ℓ
- (b) Diesel oil: 454 won/ℓ
- (c) Kerosene: 90 won/ℓ
- (d) Heavy fuel oil: 17 won/ℓ
- (e) Propane gas: 20 won/kg
- (f) Butane gas: 360 won/kg
- (g) Natural gas (including liquefied form): 60 won/kg

* With regard to gasoline and diesel oil, not individual consumption tax but transportation·energy·environment tax will be levied until the end of 2009.

**Flexible rates are specified in the Presidential Decree. Actual rates as of January 1, 2007 are 134 won/ℓ for kerosene and 306 won/kg for butane gas.

b. Taxable Places

(1) Group 1

The individual consumption tax rates on the following taxable places are:

- (a) Horse-race park: 500 won per person
- (b) Slot machine places: 10,000 won per person
- (c) Golf courses: 12,000 won per person
- (d) Casinos: 3,500 won per person
(none for foreigners-only casinos)
- (e) Bicycle race park: 200 won per person

(2) Group 2:

Entertainment taverns or saloons, etc.: 10%

4. Tax Returns and Payment

- a.** A taxpayer who sells or takes taxable goods out of the place of manufacture shall file a tax return containing volume, price and tax base, amounts of unpaid tax or tax exemption, amounts of tax credit and refund, etc., by the end of the month following the month in which the sales or the taking out of the manufacture of the taxable goods takes place, and shall pay the tax amount due by that time.

- b.** Where a taxpayer importing taxable goods has made an import declaration, he or she is regarded as complying with the obligation to file a tax return.

- c.** Operators of taxable places shall file a tax return by the end of the month following the month in which a taxpayer uses the taxable place and pay the tax amount due by that time.

5. Non-Taxable Goods

- (1) goods directly manufactured by a person (excluding a corporation) for his or her own use or the use by his or her family member;
- (2) goods to which the simplified tariff are applicable under the Customs Law;
- (3) goods on which liquor tax is imposed; and
- (4) goods confiscated under the Livestock Products Processing and Dealing Law, the Drugs, Cosmetics and Medical Instruments Law, or the Food Sanitation Law.

a. Exemptions

- (1) Exemption on exportation or supply to the military

Goods exported or supplied to foreign military forces stationed in Korea are exempt from individual consumption tax upon application for exemption.

- (a) Where a taxpayer fails to prove the facts of exportation or supply to foreign military forces within the prescribed period, the individual consumption tax is charged retroactively.

- (b) Where the goods exempted on the condition that they are supplied to foreign military forces are transferred to or held by other person within 5 years from the day of the approval for the exemption, the transferee or the holder is liable to individual consumption tax.

(2) Exemption for diplomats

- (a) Goods imported or purchased from the manufacturer for official use by foreign diplomatic offices
- (b) Goods imported for the personal use by foreign diplomats, foreign aid missions, and their family members
- (c) Oil and its products used by the diplomatic offices stationed in Korea
- (d) Where the exempted goods are transferred to or held by other persons within 5 years from the day of the approval for the exemption, the transferee or the holder is liable to individual consumption tax

(3) Exemption for foreigners-only sales outlets

- (a) Specific goods (e. g., jewelry, automobiles, etc.) for sale in foreign currency to non-residents or foreign diplomats at designated sales outlets exclusively used by foreigners
- (b) Where the operators of the sales outlets sell the tax exempt goods in Korean won, or where a person who has acquired the tax exempt goods at the said sales outlets does not possess the goods at the time of departure from Korea, or where the tax exempt goods are in the hands of a person who does not qualify for the acquisition of goods at the said sales outlet, the individual consumption tax due is assessed retroactively.

(4) Conditional exemption

Where certain conditions are not satisfied, individual consumption tax is assessed retroactively on:

- (a) goods used for the production of atomic energy or an isotope, or for the development of atomic reactor pile;
- (b) jewelry for industrial or experimental use;

- (c) automobiles purchased by disabled persons (tax exemption is allowed for only one automobile per disabled person, regardless of the size of engine displacement driven by a disabled person or others living with him), and automobiles used exclusively for the purpose of transportation of patients and rental business purpose (automobiles which have been rented to the same person or corporation for a period or periods exceeding 6 months within 5 years from the time of purchase are excluded).
- (d) goods donated from foreign countries to charity or relief organizations;
- (e) goods donated from foreign countries for religious services;
- (f) sample goods or reference goods used at schools, nursery schools, museums or other display places;
- (g) goods donated from foreign countries to an academic or educational institution for academic research or educational purposes;
- (h) duty-exempt goods that are to be re-exported;
- (i) oil and its products used for aircraft, deep sea fishing vessels, or vessels in international navigation;
- (j) oil for medical use, manufacture of medical goods, fertilizers, agricultural chemicals, or raw materials for the petro-chemical industry;
- (k) articles of consumption to be used in foreign trade vessels, deep sea fishing vessels or aircraft used in international traffic, other than fuel;
- (l) luxury cameras for the purposes of broadcasting, newspaper reports, communication, school education, or nursery school education.

(5) Unconditional exemption

- (a) Goods donated to a foreign charity or relief organization;
- (b) Decorations or other similar articles and letters of commendation conferred from foreign countries;
- (c) Official goods sent by Korean embassies abroad or from military ships in foreign navigation;
- (d) Containers of export goods that are re-imported;

- (e) Goods donated to the government, or local authorities;
- (f) Goods imported for military aid purpose or munitions made from such goods
- (g) Duty exempt personal effects personally carried by or separately imported goods of a person who enters Korea;
- (h) Duty exempt goods of a small sum donated to residents;
- (i) Duty exempt commercial samples or advertisement goods imported from abroad;
- (j) Goods carried out for display at foreign exhibition grounds;
- (k) Re-imported goods on which individual consumption tax was imposed and credit or refund was not granted thereon;
- (l) Goods to be used for the secret service of the chief of state.

6. Tax Credits and Refund

a. Tax Credits

Where goods or raw materials on which the Individual consumption tax was charged or is chargeable come under one of the following categories, the tax charged or chargeable is credited against the concerned tax amount payable.

- (1) Taxable goods are delivered from a manufacturer or bonded area and are directly used for the manufacture or processing of other taxable goods
- (2) Class 3 taxable goods (e. g., jewelry, pearls, etc.) purchased from other sellers or manufacturers, or delivered from a bonded area, are sold
- (3) Taxable goods which were delivered from a manufacturer or bonded area, are carried out after some additional work done to them

b. Refund

Where goods or raw materials on which individual consumption tax was charged or is chargeable come under one of the following categories, the paid tax amount is refundable or deductible.

- (1) Taxable goods or their products exported or supplied to foreign military stationed in Korea
- (2) Goods that are exempt from individual consumption tax and goods used as raw materials for such goods

- (3) Taxable goods returned to the manufacturing site (excluding used articles, but including ones returned by exchange and refund under the Consumer Protection Law)
- (4) Taxable oil and its products used for medical care, for the manufacture of medicine or fertilizer, for aircraft, vessels in foreign navigation, deep sea fishing vessels, or by foreign diplomatic offices or similar organizations

c. Miscellaneous Rule

- (1) In case where the individual consumption tax is collected with respect to the goods for which the conditions for exemption are not satisfied, the tax amount paid or payable on the raw materials of the said goods is not creditable or refundable.
- (2) Penalty taxes chargeable on the goods subject to individual consumption tax are not creditable or refundable.

Chapter VII: Liquor Tax

1. Taxpayer

- a. Manufacturers of liquor and persons taking over liquor from a bonded area are liable to liquor tax on the liquor carried out of the manufacturing premises or taken out of the bonded area.
- b. A person who intends to manufacture or sell liquor must get a manufacturing license or a selling license from the government.

2. Tax Base

- a. Spirits (alcohol content 95% or more): the volume of liquor carried out of the brewery or taken out of a bonded area
- b. Liquor other than spirits: the price of liquor carried out of the brewery or taken out of a bonded area

3. Tax Rates

a. Spirits

57,000 won per kl (600 won is added for every additional 1% of alcohol content)

b. Other Liquor

(1) Takju	5%
(2) Yakju	30%
(3) Beer	72%
(4) Cheongju	30%
(5) Fruit wine *	30%
(6) Distilled soju	72%
(7) Diluted soju	72%
(8) Whiskey	72%
(9) Brandy	72%
(10) General distilled spirits	72%
(11) Liqueur	72%
(12) Other liquors	

- (a) Liquors made by fermenting method other than fermented liquor:

30%

- (b) Liquors, except distilled liquor mixed with the fermented method and neutral spirits or distilled liquor:

72%

* Liquor tax law has been revised on January 9th, 2008 to reduce liquor tax rate 50% for small-scale producers of traditional liquors. Fermented liquors are entitled to the tax exemption up to 200 kl annually and distilled liquors are up to 100 kl tax exempted. Small-scale producers of traditional liquors refer to those who produce fermented liquors less than 500 kl per year and those who produce distilled liquors less than 250 kl per year.

4. Tax Returns and Payment

- a. A liquor tax return on the monthly volume and the prices of liquor delivered must be filed by the last day of the month after the following month of the date in which the liquor is delivered from the brewer or distiller, and the tax must be paid within the time limit of the tax return.
- b. With respect to liquor taken out of a bonded area, the return must be filed and the recipient must pay the tax at the time of takeover.
- c. Where the return has not been filed, or the contents or filed return are not proper, the government will determine the tax base and the tax amount due.

5. Exemptions

The following items of liquor are exempt from liquor tax:

- (1) liquor to be exported;
- (2) liquor supplied to U. N. forces stationed in Korea;
- (3) liquor supplied to Korean forces stationed abroad;
- (4) liquor supplied to foreign diplomatic missions in Korea;
- (5) liquor supplied to lounges for foreign crews;
- (6) liquor imported by foreign diplomatic missions for official use and by diplomatic officials for self-use;
- (7) liquor presented from a foreign country for ceremonial use by temples, churches, and other religious institutions;
- (8) liquor collected for the purpose of examination;
- (9) liquor carried by tourists and exempted from customs duties;

(10) liquor manufactured by a person who knows a secret method of brewing, and is designated as an intangible cultural asset.

Chapter VIII : Stamp Tax

1. Taxpayer

a. Stamp tax is levied on a person who prepares a document certifying establishment, transfer, or change of rights to property in Korea.

b. In case where two or more persons jointly prepare a document, they are jointly and severally liable to pay stamp tax on the document concerned.

2. Taxable Documents and Tax Amount

Taxable document	Value stated on the deed	Tax amount
1. Deed of contract concerning the transfer of the ownership of real estate, vessel, aircraft, or business	more than 10 million won and 30 million won or less	20,000 won
2. Deed of contract concerning loans for consumption	more than 30 million won and 50 million won or less	40,000 won
3. Deed of contract concerning contract for work	more than 50 million won and 100 million won or less	70,000 won
	more than 100 million won and 1 billion won or less	150,000 won
	more than 1 billion won	350,000 won
4. Deed concerning rights to lease immovable property	N/A	10,000 won
5. Deed concerning the transfer of registered movable property (car, heavy machinery, vessel)	N/A	3,000 won
6. Deed concerning surface rights or easements	N/A	3,000 won

7. Deed concerning the transfer of mining rights, intangible property right, fishing right, copyright, or firm name right	N/A	3,000 won
8. Deed concerning rights of usable facilities (Golf and condominium membership cards)	N/A	10,000 won
9. Deed concerning transactions conducted on a continuous/ repetitive basis a. Application form for a credit card b. Contract or application form for wired telephone service c. Application form for credit card merchant	N/A	1,000 won
10. Gift voucher	More than 50,000 won More than 10,000 won and 50,000 won and less	⇒400won ⇒200won
11. Share certificate, bond, investment certificate, beneficiary certificate	N/A	400 won
12. Deposit or savings certificate or passbook, repurchase agreement, insurance policy and trust certificate or passbook	N/A	100 won
13. Deed of contract concerning lease or deferred payment sale	N/A	10,000 won
14. Deed concerning guarantee of an obligation: a. Deed issued by a bank b. Deed issued by the Credit Guarantee Fund c. Deed issued by an insurer	N/A	10,000 won 1,000 won 200 won

Stamp tax is levied on a per copy of deed basis or on a per volume of passbook basis.

3. Payment

A taxpayer preparing a taxable document shall pay stamp tax by putting a stamp on the document. However, the commissioner of Korean Intellectual Property Office (KIPO) has the authority to collect and pay stamp tax on the transfer of intellectual property right.

In the case of taxable documents prepared on a continuous/ repetitive basis, the director of the tax office concerned may permit the taxpayer to pay the tax in cash by the tenth day of the month following the month in which the document is prepared, if the taxpayer applies for such payment method.

4. Non-Taxable Documents

- a. Documents prepared by the government or local authorities
- b. Documents prepared with respect to the treatment of treasury funds
- c. Documents submitted to government agencies with respect to a donation for public works
- d. Documents prepared by charity or relief organizations with respect to their businesses
- e. Deed of contract concerning lease or deposit of residential house
- f. Certificates of acceptance or guarantee of bills
- g. Copies or transcripts of negotiable securities
- h. Deed of contract concerning the ownership of a residential house valued at 100 million won or less
- i. Deed of contract concerning loans for consumption of 20 million won or less
- j. Currency stabilization bonds issued by the Bank of Korea
- k. Bonds issued by international financial bodies and deeds prepared with respect to the issuance of such bonds

5. Penalty Tax

If a taxpayer did not pay the stamp tax due or the paid amount is less than the due amount, an amount equivalent to 300% of the outstanding tax amount is charged as penalty tax.

Chapter IX: Securities Transaction Tax

1. Taxpayer

- a. Securities Settlement Corporations
- b. Securities Companies
- c. Alienator of securities

2. Taxable securities or interests

Securities Transaction Tax (STT) is imposed on the transfer of stocks of a corporation established under the Commercial Code or any special law, or on the transfer of interest in a partnership, limited partnership, or limited liability company established under the Commercial Code. However, the transfer of stocks listed on overseas stock exchanges such as the NYSE, the NASDAQ, the Tokyo Stock Exchange, the London Stock Exchange, the Deutsche Boerse AG, the Euronet Stock Exchange, the Singapore Exchange Limited and foreign stock exchanges similar to the above-mentioned stock exchanges are not be subject to STT.

3. Tax Base

Total value of securities at the time of alienation

4. Tax Rates

- a. General: 0.5%
- b. Temporary tax rates may be applied to stocks listed on the Stock Market and the KOSDAQ Market of the Korea Exchange, if deemed necessary to boost the capital market. (Applicable temporary rates: 0.15% for the Stock Market-listed, 0.3% for the KOSDAQ-listed)

5. Collection at Transaction

The securities settlement corporations and securities companies are required to collect tax at the time of transaction. The tax amount to be collected is computed by multiplying the tax base by the tax rate.

6. Tax Returns and Payment

Taxpayers shall file tax returns and pay taxes to the government by the 10th day of the month following the month in which the transaction takes place.

Part 4: Earmarked Taxes

Chapter X: Transportation·Energy·Environment Tax

1. Taxpayer

Any person falling under one of the following categories is liable to transportation·energy·environment tax.

- a. A person who produces gasoline & similar alternative oil, and diesel oil & similar alternative oil
- b. A person who imports gasoline & similar alternative oil, and diesel oil & similar alternative oil

2. Tax Base and Tax Rates

- a. Gasoline and similar alternative oil: 630 won/ℓ
- b. Diesel oil and similar alternative oil: 454 won/ℓ

* Flexible rates are specified in the Presidential Decree. Actual rates as of April 1, 2008 are 472 won/ℓ for gasoline and 335 won/ℓ for diesel oil.

3. Tax Returns and Payment

- a. A person who manufactures and transports taxable goods from the manufacturing premises shall file a return which includes the volume and price of transaction, calculated tax amount, amount of unpaid tax or tax exemption, amount of tax credit and refund, tax amount payable, etc., by the end of the following month with the government, and pay a monthly tax due by the deadline to file the return.
- b. When a person transports taxable goods out of a bonded area and makes an import declaration, he or she shall be regarded as complying with the obligation to file a return. In that case, he or she should pay the transportation·energy·environment tax along with the customs duties at the time of the import declaration.
- c. With respect to goods subject to customs duties other than imported goods, the provisions of the Customs Duties Law are applicable *mutatis mutandis*.

4. Exemptions

a. Exemption on Exportation or Supply to the Military

Goods exported or supplied to foreign military forces stationed in Korea are exempt from transportation·energy·environment tax upon application for exemption.

- (1) In case where a taxpayer fails to prove the facts of exportation or the facts of supply to foreign military forces within the prescribed period, transportation·energy·environment tax is charged retroactively.
- (2) In case where the goods exempted on the condition that they are supplied to foreign military forces stationed in Korea are transferred to other person, the transferee is liable to transportation·energy·environment tax.

b. Exemption for Diplomats:

Goods being used by foreign diplomatic offices, etc., are exempt from transportation·energy·environment tax.

c. Conditional Exemption

When the conditions required for exemption are not satisfied, the transportation·energy·environment tax is assessed retroactively.

- (1) Goods donated by foreign countries to a charity or relief organization
- (2) Duty-free goods that are to be re-exported
- (3) Commodity goods to be used abroad in vessels, deep sea fishing vessels, or aircraft
- (4) Articles for medical care or manufacture of medical goods, fertilizers, or petro-chemicals

d. Unconditional Exemption

- (1) Goods donated to a foreign charity or relief organization
- (2) Goods donated to the government or local authorities
- (3) Goods imported for military aid purpose or munitions made from such goods
- (4) Re-imported goods on which the transportation·energy·environment tax was imposed and credit or refund was not granted thereon

5. Tax Credits and Refund

a. Tax Credits

In case where goods or raw materials on which the transportation·energy·environment tax was or will be charged, are taken out from the manufacturing premise or the bonded area, and are directly used for manufacturing or processing of other taxable goods, the tax charged or to be charged on the goods or raw materials is credited against the tax amount payable on the taxable goods concerned.

b. Refund

In case where goods or raw materials on which the transportation·energy·environment tax was or will be charged fall under one of the following categories, the paid tax amount is refundable or deductible.

- (1) Where the taxable goods or products manufactured with the use of such taxable goods are exported or supplied to foreign military forces stationed in Korea
- (2) Where goods made of taxable raw materials are exempted from transportation·energy·environment tax
- (3) Where the taxable goods are returned
- (4) Where the taxable goods are used for medical care, for the manufacture of medicines or fertilizers, for aircraft, vessels in foreign navigation, deep sea fishing vessels, or by foreign diplomatic corps or similar organizations

c. Miscellaneous Rule

- (1) Where the transportation·energy·environment tax is collected with respect to the goods, which do not fulfill the conditions for exemption, the tax amount paid or payable on the raw materials of the said goods shall not be credited or refunded.
- (2) Tax penalties chargeable on the goods subject to the transportation·energy·environment tax shall not be credited or refunded.

Chapter XI: Education Tax

1. Taxpayers

- a. Persons engaged in banking and insurance businesses in Korea
- b. Taxpayers of individual consumption tax pursuant to the Individual consumption tax Law (excluding those who pay individual consumption tax on LPG, petroleum, diesel oil, and LNG)
- c. Taxpayers of transportation·energy·environment tax pursuant to the Transportation·Energy·Environment Tax Law
- d. Taxpayers of liquor tax excluding spirits, "Takju," and "Yakju"

2. Non-Taxable Income

Concerning the banking and insurance businesses, profits from property placed in trust for public welfare shall not be liable to education tax.

3. Tax Base and Tax Rates

Taxpayer	Tax Base	Rate
Banking and Insurance Business	Gross receipts	0.5%
Taxpayer of Individual consumption tax	Individual consumption tax amount payable pursuant to the Individual consumption tax Law	30% (15% in the case of kerosene, heavy oil, butane or LPG, heavy end, and C9 ⁺)
Taxpayer of Transportation·Energy·Environment Tax	Transportation·energy·environment tax amount payable pursuant to the Transportation·Energy·Environment Tax Law	15%
Taxpayer of Liquor Tax	Liquor tax amount payable pursuant to the Liquor Tax Law	10% (30% when liquor tax rate is over 70/100)

* The tax rates illustrated above may be adjusted within 30% of each rate

if needed to raise funds for investment in education.

- (1) Regarding banking and insurance businesses, the education tax payable in relation to the share of gross receipts from swap transaction with the Bank of Korea shall not exceed the net income amount;
- (2) Regarding banking and insurance businesses, gross receipts consist of the following amounts received within Korea:
 - (a) interest;
 - (b) dividends;
 - (c) commissions;
 - (d) guarantee fee;
 - (e) profits from the transfer of securities;
 - (f) insurance premiums;
 - (g) profits from foreign exchange transactions;
 - (h) rent;
 - (i) profits from the transfer of fixed assets;
 - (j) other operating or non-operating revenue.

4. Tax Returns and Payment

a. With regard to the Taxpayers Described in 1a

Taxpayers shall file education tax returns with and pay the tax to the district tax office concerned by the due date as specified below:

	Taxation Period	Due Date
First Period	January 1 – March 31	May 31
Second Period	April 1 – June 30	August 31
Third Period	July 1 – September 30	November 30
Fourth Period	October 1- December 31	Last day of the February of the following year

b. With regard to the Taxpayers Described in 1b, 1c and 1d

When taxpayers declare and pay an amount of individual consumption tax,

transportation·energy·environment tax, or liquor tax, as the case may be, they shall also declare and pay education tax thereon.

5. Determination and Collection

a. With regard to 4a

- (1) The government will correct the tax base and the tax amount if there are any omissions or errors on the return filed.
- (2) When education tax is not paid or is partially paid, the government shall collect the unpaid tax immediately.

b. With regard to 4b

Education tax on the individual consumption tax amount, transportation·energy·environment tax amount, or the liquor tax amount is assessed and collected according to the Individual consumption tax Law, the Transportation·Energy·Environment Tax Law or the Liquor Tax Law., as the case may be.

6. Penalty Tax

When education tax is not paid or is partially paid, a penalty equivalent to 10 percent of the outstanding tax amount shall be levied.

7. Non-Inclusion of the Education Tax Amount in Losses or Necessary Expenses

The education tax assessed on the tax amount not included in losses or necessary expenses under the provisions of the Income Tax Law or Corporation Tax Law is not included in losses or necessary expenses in the calculation of the income amount for the purpose of income tax or corporation tax.

Chapter XII: Special Tax for Rural Development

1. Objective of Special Tax for Rural Development (STRD)

The objective of the Special Tax for Rural Development (STRD) is to support the rural community and the agricultural and fisheries industry. As a result of the UR negotiations, the farming industry in Korea is subject to market opening. Due to the low productivity of the Korean agricultural industry, the government enacted the Special Tax for Rural Development in July 1994 in order to raise funds for various rural development programs.

2. Taxpayer

- (1) An individual or a corporation whose tax liability (individual income tax, corporation tax, customs duty, acquisition tax, or registration tax) is reduced under the Special Tax Treatment Control Law (STTCL), the Local Tax Law, or the Customs Law
- (2) Taxpayers of certain categories of individual consumption tax
- (3) Taxpayers of securities transactions tax
- (4) Taxpayers of acquisition tax, and leisure tax
- (5) Taxpayers of comprehensive real estate holding tax

3. Tax Base and Tax Rates

Basically, the STRD is a surtax levied on the exempted amount of corporation tax, individual income tax, customs duty, individual consumption tax, and securities transaction tax. The tax base of STRD is the exempted amount of the above-mentioned taxes, where the exemptions are stipulated in the STTCL, the Local Tax Law, or the Customs Law. Therefore, the exemptions of the above mentioned taxes which are stipulated in the Corporation Tax Law, Income Tax Law, or Foreign Investment Promotion Law are not part of the tax base of STRD.

※ Tax Base & Tax Rates

Tax Base	Tax Rates	Remarks
The exempted amount of corporation tax, individual	20%	Except for tax reduction for development of technology, public

income tax, customs duties, acquisition tax, and registration tax under the STTCL, the Local Tax Law and the Customs Law		projects, etc.
The exempted amount of income tax in relation with interest and dividend income under the STTCL	10%	
The transfer price of listed stocks	0.15%	
The excess of corporation tax base over 500 million won	2%	Limited to the tax year ended after July 1, 1994 and the following tax year
Individual consumption tax payable	10%	Admission to golf courses: 30%
Acquisition tax payable	10%	Except for small houses or farmhouses *STRD surcharged on auto acquisition tax repealed effective January 1, 1999
Comprehensive real estate holding tax payable	20%	
Leisure tax payable	20%	

4. Effective Period

The STRD took effect on July 1, 1994. The limitation period is 10 years; therefore it is scheduled to end on June 30, 2014.

5. Non-Taxation

- (1) Tax reductions and exemptions granted to the government and local autonomous bodies
- (2) Tax reductions and exemptions granted to newly organized small and medium sized enterprises
- (3) Tax reductions and exemptions granted to foreign financial institutions (Tax Exemption and education Control Law, Article 94)
- (4) Acquisition tax reduction for small houses or farmhouses prescribed by the Presidential Decree
- (5) Customs duty reduction by multilateral or bilateral agreement prescribed by the Presidential Decree.

Part 5: Comprehensive real estate holding tax

Chapter XIII: Comprehensive Real Estate Holding Tax

1. Taxable Objects

Residential houses and land (except villa)

* Under the Comprehensive Real Estate Holding Tax Law, a residential house includes land to which the house belongs.

2. Taxpayer

a. Residential House

A person who is liable to property tax on residential house as of June 1st and the sum of government-evaluated prices of whose residential houses subject to property tax exceeds 600 million won is liable to the comprehensive real estate holding tax.

In the case of individuals, if the sum of government-evaluated prices of all residential houses subject to property tax which are held by each member of a single household exceeds 600 million won, a member of the household whose residential houses account for the largest portion of the sum of the government-evaluated prices is liable to the tax.

b. Land

A person who is liable to property tax on land as of June 1st and who falls under one of the following categories:

- (1) Land of general aggregate taxable object for property tax (vacant land etc):

A person the sum of government-evaluated prices of whose aggregate land subject to comprehensive aggregation taxation for property tax exceeds 300 million won is liable to the comprehensive real estate holding tax.

In the case of individuals, if the sum of government-evaluated prices of all land of general aggregate taxable object for property tax which are held by each member of a single household exceeds 300 million won, a member of the household who accounts for the largest portion of the sum of the government-evaluated prices is liable to the tax.

- (2) Land of special aggregate taxable object for property tax (land attached to store, office, buildings, etc.):

A person the sum of government-evaluated prices of whose land of special aggregate taxable object for property tax exceeds 4 billion won is liable to the tax.

* Land of separate taxable object: excluded from comprehensive real estate holding tax.

- (1) Farmland (dry field, rice paddies, orchard), forests, pasture lots, factory sites within the standard area.
(2) Land for private golf courses and luxury amusement etc.

3. Tax Base

a. Residential house:

The sum of government-evaluated prices of all residential houses held by a single household less 600 million won

* The portion of tax base recognized for the purpose of computation of tax amount increases on a gradual basis each year until it reaches 100%: 70% of tax base (2006), 80% of tax base (2007), 90% of tax base (2008) and 100% (2009 and beyond)

** Tax base for property tax: 55% of the government-evaluated price (price for residential houses disclosed by the Ministry of Construction & Transportation)

b. Land

- (1) Land of general aggregate taxable object for property tax:

The sum of government-evaluated prices of all land of general aggregate taxable object held by a single household less 300 million won

*The portion of tax base recognized for the purpose of computation of tax amount increases on a gradual basis each year until it reaches 100%: 70% of tax base (2006), 80% of tax base (2007), 90% (2008) and 100% (2009 and beyond)

- (2) Land of special aggregate taxable object for property tax:

The sum of government-evaluated prices of all land of special aggregate taxable object held by a single person less 4 billion won

* The portion of tax base recognized for the purpose of computation of tax amount increases on a gradual basis each year until it reaches

100%: 55% of tax base (2006), 60% of tax base (2007), 65% (2008), 70% (2009)...100% (2015 and beyond)

** Tax base for property tax: 65 % of the government-evaluated price

4. Tax Rates

a. Residential house

Tax base	Tax rates
Not more than 300 million won	1%
300 million won ~ 1.4 billion won	1.5%
1.4 billion won ~ 9.4 billion won	2%
More than 9.4 billion won	3%

b. Land

(1) Land of special aggregate taxable object for property tax

Tax base	Tax rates
Not more than 16 billion won	0.6%
16 billion won~96 billion won	1%
More than 96 billion won	1.6%

* Exception of special aggregate taxable object for property tax (Land)

Tax base	Tax rates
More than 20 billion Won	0.8%

*: Special tax treatment of separate taxation: 0.8% rate on the excess of 20 billion won (government-evaluated price) by aggregating land (for tourism and hotel, multi-purpose resort, amusement park and golf course purpose) and attached land (for garage complex under logistics and cargo vehicles law and factory purpose) held by a single person

(2) Land of general aggregate taxable object for property tax

Tax base	Tax rates
Not more than 1.7 billion won	1%
1.7 billion won~9.7 billion won	2%
More than 9.7 billion won	4%

5. Tax Credits

The amount equal to the property tax amount levied as local tax on the excess of the value of property subject to the comprehensive real estate holding tax over value threshold described in 2 above is deductible against the comprehensive real estate holding tax.

6. Determination of Tax Obligation

Whether or not a person is liable to the comprehensive real estate holding tax is determined based on status of ownership as of June 1st.

7. Non -Taxation & Exemptions/Reductions

- a. Provisions on non-taxation, tax exemptions and reductions for property tax under the Local Tax Code, the Special Tax Treatment Control Law and municipal and county ordinances (except for some non-taxation, exemptions, reductions under municipal and county ordinances) apply mutatis mutandis.
- b. Leased house, a company house for employees, unsold houses of housing construction business and child day care centers which meet certain criteria are excluded from the scope of residential houses for the purpose of this chapter.

8. Ceiling on Tax Liability

Where a taxpayer's tax liability (the sum of property tax amount and comprehensive real estate holding tax amount) for the taxable year concerned exceeds 300% of that of the previous year (150% in the case of land of special aggregate taxable object), the excess amount is tax-exempt.

9. Tax Imposition and Collection

The concerned tax office determines tax liability and imposes and collects it from December 1st of the year to December 15th. Tax return is issued until 5 days before the first day of tax payment period. However, reporting and payment are allowed to be made from December 1st of the year to December 15th depending on reporting and payment methods.

10. Transfer of Collected Tax

The collected tax by central government is used for compensating the loss of property and transaction taxes due to 2005 real estate tax reform. The remainder is totally distributed to local governments according to their fiscal status (50%), social welfare (25%), local education (20%) and the share of real-estate-holding-tax (5%).

Part 6: Tax Payment, Collection & Disputes

Chapter XIV: Payment, Collection & Disputes

1. Payment of National Taxes

Range of tax rates

Under the Korean tax law, the tax rates applied to different types of tax are broadly classified into proportional and progressive rates. Proportional tax rates are further divided into regular and differential proportional rates. Regular proportional rates are applied to value-added tax (10%) and asset revaluation tax (3%). On the other hand, differential proportional tax rates are levied on securities transaction tax, special consumption tax, liquor tax, and transportation·energy·environment tax.

Corporation tax, income tax, and inheritance & gift tax are subject to progressive tax rates, varying upon the tax bracket. For instance, progressive tax rates imposed upon corporation tax are 16% for the amount less than 100 million won and 28% if the amount exceeds 100 million won. Individual income is divided into 4 tax brackets and is subject to tax rates ranging from 10% to 40%. Taxable amounts in the inheritance & gift tax are divided into 5 tax brackets and are subject to tax rates between 10% and 50%.

Occurrence of tax liability

Certain taxes such as income tax, corporation tax, and value-added tax are established at the end of a taxable period, as prescribed in provisions of the tax law. On the other hand, liability on inheritance tax is established when there is a bequest. Liability on gift tax is established when property is acquired through a gift. Liability on asset revaluation tax is established when the asset is subject to revaluation. Liability on the Excess Profits Tax is established when transaction in excess of a standard price is carried out.

With respect to special consumption tax, liquor tax, and transportation·energy·environment tax, an obligation of tax payment occurs when the taxable goods leave the factory or are sold, and in case of imported goods, when they are declared for importation at customs. Liability on stamp tax is established when taxable documents are drafted, and in case of securities transaction tax, when transactions are confirmed.

Finally, liabilities on earmarked taxes such as education tax and special tax for rural development are established at the same time as when their principal taxes are due.

Different assessment methods

The present tax collection system in Korea uses three separate methods: the self-assessment method, the official assessment method, and the special collection method.

Under the self-assessment method, taxpayers themselves assume the primary responsibility for calculation of the tax base and the amount of tax, filing a tax return based upon their calculation and paying the tax due. The tax authorities, however, reserve the right to adjust taxpayers' returns with correction notices. When a taxpayer fails to file a tax return, the tax authorities send by notification the tax base and the amount of tax payable. The self-assessment method is applied to income tax, corporation tax, value-added tax, individual consumption tax, liquor tax, transportation·energy·environment tax, and securities transaction tax.

On the other hand, the official assessment method is applicable to inheritance & gift tax, asset revaluation tax, and excess profits tax. Under this system, the government determines the tax base and the amount of tax due, and issues a notice requiring the taxpayer for the tax payment. Tax file returns are regarded as information different from that used under the self-assessment method.

Finally, the special collection method applies to stamp tax; portions of income tax and corporation tax are subject to withholding tax, and income tax collected by certain taxpayer associations and portions of corporation tax are subject to estimated prepayment.

2. Collection of National Taxes

National taxes are collected in accordance with the National Tax Collection Law, with the objective of securing tax revenue in a predictable manner. The principles of the National Tax Collection Law may also be applied to the compulsory collection of local taxes and other public charges. The Basic Law for National Taxes and other tax laws take precedence over the National Tax Collection Law containing general provisions and procedural regulations.

Procedure for mandatory collection of delinquent taxes

When a taxpayer fails to pay tax of the tax return, or the amount of adjustment or determination by the due date, the tax authorities must collect delinquent taxes in accordance with the National Tax Collection Law.

(1) The primary and secondary notice

Primary and secondary notice of demand requiring payment within the specified time period prescribed by the Basic Law for National Taxes is sent by the director of the tax office exercising jurisdiction over the taxpayer when a taxpayer fails to pay tax in full

by the due date.

(2) Attachment

If a taxpayer fails to pay the tax due within the date specified on the notice, the tax authorities have the right to attach the taxpayer's property. Attached property is classified into four categories and different procedures for each category are provided: (1) movable property and securities, (2) immovable property, (3) claims, and (4) other property rights.

(3) Request for share distribution

If the property of a delinquent taxpayer is sold at a public auction, or in connection with bankruptcy liquidation procedures, the tax authorities may claim a share of the proceeds distributed from the sale.

(4) Sale of property

In principle, the attached property is sold publicly by way of tender or auction. The tax authorities publicly notify the property to be sold at least ten days before the date of sale, notifying the delinquent taxpayer and other parties interested in the public sale.

(5) Distribution of proceeds

The proceeds of the property sold are appropriated in order of priority among (1) delinquent taxes for which the property was attached to, (2) other delinquent taxes or public charges for which a share of the distribution was requested, and (3) to creditors with secured private claims on the private property. The remaining proceeds go to the delinquent taxpayer.

3. Tax Disputes

Procedures to be followed

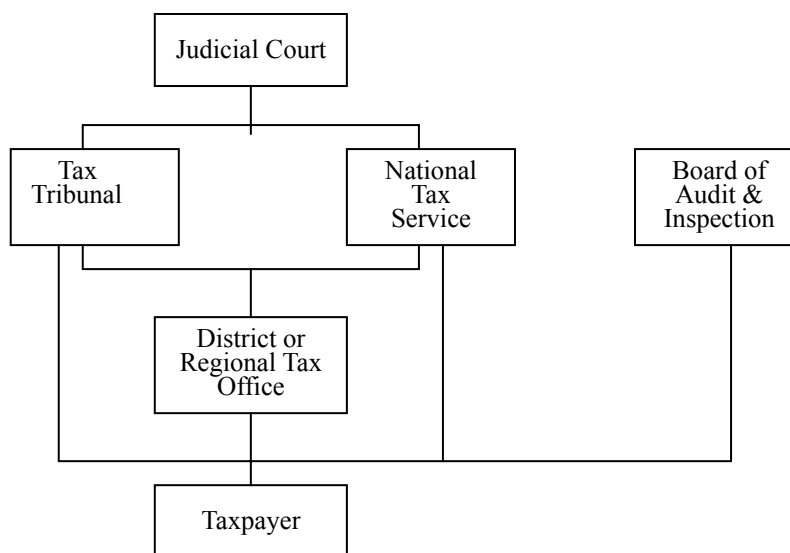
If a taxpayer believes that certain actions taken by the tax authorities are in violation of the existing tax law, he or she may appeal to the head of a regional or district tax office within 90 days from the date of receiving notice. On receiving a

complaint from a taxpayer, the regional or district tax office shall issue a ruling within 30 days. The taxpayer or anyone who guarantees payment of taxes may initiate the legal process of the appeal.

If a taxpayer is not satisfied with an assessment made by the head of a regional or district tax office, they may appeal to the National Tax Service or the Tax Tribunal within 90 days of receiving a written notice from the regional or district tax office. The National Tax Service will make a decision on the case within 90 days. However, taxpayers have an option to appeal directly to the National Tax Service. The Tax Tribunal will issue its decision within 90 days. If the taxpayer is still unsatisfied with the decision rendered by the National Tax Service or the Tax Tribunal, he or she may take the case before the judicial court for the final decision.

Before taking the case to judicial court, reinvestigation of the case by the Board of Audit & Inspection may be elected by the discontented taxpayer within 90 days from the date of receipt of a written notice from the regional or district tax office instead. The Board of Audit & Inspection will issue a ruling within 3 months. If a taxpayer is still not satisfied with the decision rendered by the Board of Audit & Inspection, he or she may then take the case to judicial court. (See the chart of procedures on tax disputes).

<Procedures on Tax Disputes>



* A decision should be made to appeal to the higher authorities within 90 days.

4. Penalties on National Taxes

Penalties for failure to meet tax obligations

Penalties are issued in both administrative and judicial forms if taxpayers, without a reasonable excuse, fail to meet their tax obligations by, for example, neglecting to file a tax return in accordance with the tax laws or by submitting an incorrect tax return by omitting any taxable items.

A reasonable excuse, which justifies a deferral of tax payment, includes the case where a taxpayer incurs serious losses from his or her business. In this case, tax may be deferred with the permission from the head of a district tax office and with collateral worth 120% of the tax amount overdue.

In addition, the Basic Law for National Taxes stipulates that taxes eligible for self-assessment and those withheld at source may be deferred for up to 9 months. The National Tax Collection Law (NTCL) provides for the deferral of tax amount overdue after receiving the primary and secondary notice from a district tax office. The NTCL also allows for a delay of the disposal of attached property, when the tax amount overdue is likely to be collected in the near future. More specifically, if there is a firm conviction that the overdue amount will be paid, then the business is allowed to continue by delaying the attachment of the property. The taxpayer may make payments of the overdue amount in installments and may delay the attachment of property or the disposal of attached property for up to one year.

The administrative penalty is a sanction taken against default such as a failure to file a tax return or a filing of an incorrect tax return. The purpose of imposing additional tax is to ensure the compliance of taxpayers with the existing tax laws and regulations. In such cases, the primary fine of 3% of the original tax amount due and is levied on the defaulting taxpayer. In addition, a secondary fine equivalent to 1.2% of the overdue amount is charged each month for up to 60 months, starting from the due date in the primary notice. Fines are imposed in accordance with the NTCL.

Judicial penalty against tax crimes

Another sanction is the judicial penalty imposed against tax crimes in connection with the assessment and collection of tax. The grounds for such penalties as well as their extent are stipulated in the Tax Evasion Punishment Law and Tax Evasion Punishment Procedural Law, respectively. The major feature of judicial penalties imposed against tax crimes is that certain tax criminals may be subject to both imprisonment and fines. A tax administrator must file charges in order to punish tax criminals.

With respect to legal punishment against tax crimes, people who commit tax

evasion are subject to imprisonment of up to three years, or fines imposed of three to five times the under-reported amount. Those who have tax amount in arrears for more than three times during the course of a fiscal year must serve a sentence up to one year, or are levied fines amounting to the amount in arrears. On the other hand, people who fail to record bookkeeping on transactions are imposed a fine of 500,000 won and those who destroy bookkeeping records or conceal them are subject to imprisonment of up to two years or a fine up to 5,000,000 won. If tax officials or administrators are involved in tax crimes, they may be subject to an additional penalty equivalent to one third of the punishment provided by the relevant law.

Part 7: Tax Incentives

Chapter XV: The Special Tax Treatment Control Law

Tax incentives aimed at achieving specific national economic objectives were mainly provided for under the Tax Exemption and Reduction Control Law (TERCL) and the Foreign Investment Promotion Law (FIPL) until the enactment of the Special Tax Treatment Control Law (STTCL) on January 1, 1999. Tax incentive provisions for FDI in the FIPL were subsumed into the STTCL as of May 24, 1999.

One important aim of the consolidation of the tax incentive systems under the STTCL is to significantly rationalize tax deferrals, credits, and exemptions granted to a wide range of taxes, by making all tax incentives covered by the STTCL subject to sunset rules. Here, most incentives expire automatically within one to five years unless they are extended.

The major purpose of STTCL is to impose taxes fairly and to implement tax policies effectively by through provisions on tax exemptions and restrictions of such benefits with an ultimate view of contributing to development of the sound economy.

1. Tax Incentives on Small and Medium-Sized Enterprises

(1) Tax credit for investment (due to expire on Dec. 31, 2009)

If SMEs acquire business assets such as machinery and equipment or installation of information management system at the point of sales and information protection system, 3% of the acquisition amount is deducted from income tax or corporation tax.

(2) Tax incentives for newly established SMEs (due to expire on Dec. 31, 2009)

(a) Reduction of income tax or corporation tax

when new SMEs are established in areas other than the Seoul metropolitan area or its adjacent areas in order to operate businesses such as manufacturing, mining, value-added network (VAN), R&D, broadcasting, data processing & computer related business, engineering science, transportation and warehousing, design institute, movie industry, performance industry, tourism related accommodation, international conference business, trading exposition, operation of facilities for amusement, operation of

facilities for tourist, advertising industry, operation of welfare facilities for the elderly, operation of facilities, vocational training institute or when new venture capital enterprises certified by authorities concerned are established, the income tax or the corporation tax for such businesses is reduced by 50% for the first four years including the year during which such income accrues for the first time.

(b) Reduction of local taxes

The property tax on business assets belonging to new SMEs is reduced by 50% for five years after establishment. In addition, the acquisition tax and the registration tax are reduced by 100% for two years.

(3) Special tax incentive for SMEs (due to expire on Dec. 31, 2008)

Small and medium-sized enterprises (SMEs) in metropolitan area are eligible for 10% or 20% deduction in corporation tax or income tax. SME in non-metropolitan area are eligible for 5%~ 30% deductions in corporation tax or income tax respectively.

2. Tax Incentives for Research and Human Resources Development

The tax incentives below are basically provided to all businesses that meet the given objective conditions without any discrimination.

(1) Tax credit for research and human resources (HR) development (due to expire on Dec. 31, 2009)

The Maximum [Ⓐ, Ⓑ] will be applied.

Ⓐ The amount equivalent to the sum of the following two is deducted from income tax or corporation tax:

- 50% of the excess of expense incurred for commissioning SMEs or universities to conduct research & HR development for the taxable year concerned over average expense incurred for commissioning SMEs or universities to conduct research & HR development over the previous four years; and

- 40% of the excess of expense incurred for research & HR development conducted by the large company itself for that taxable year over average expense incurred for research & HR development conducted by the company itself over the previous four years

ⓑ the year's R&D spending $\times (3\% + \alpha)$: up to 6% of R&D spending
 α : the share of R&D spending per each company's business revenue $\times 0.5$

(b) In the case of an SME, the amount equivalent to the greater of the following two is deducted from income tax or corporation tax:

- 50% of the excess of research & HR development expenses incurred for the taxable year concerned over average research & HR development incurred over the previous four years; or

- 15% of research & HR development expenses incurred for that taxable year

(2) Tax credit for investment in facilities for technology and human resources development (due to expire on Dec. 31, 2009)

The companies purchasing facilities prescribed in the Presidential Decree with the purpose of R&D and job training are eligible for tax credit up to 7% of the total prices.

(3) Tax Exemption for income from technology transfer

Companies purchasing patent rights or utility model rights are eligible for tax credit of up to 3% (7% in the case of SMEs) of the total price. (Due to expire on December 31, 2009)

(4) Non-taxation on capital gains of venture capitals

Venture capital companies investing in newly organized SMEs are eligible when they sell off stocks or equity of those SMEs. Corporation tax is exempt for capital gains from such transactions.

(5) Income deduction for individual investors (due to expire on Dec. 31, 2008)

This tax incentive is available to individuals investing in the following companies: cooperative associations (including those formed by individual investors) established for start-up SMEs or trusts for securities investment in venture enterprises. 10% of the amount invested not exceeding 50% of the aggregate income shall be deducted from the aggregate income for any one of three years after the

investment (including the year during which the investment is made).

(6) Tax exemption of foreign technicians (due to expire on Dec. 31, 2009)

The wage and salary income paid by domestic companies to foreign technicians working in Korea shall be exempt from income tax for five years.

3. Tax Incentives for International Capital Transactions

(1) In cases where interest and commission under one of the following items are paid, income tax or corporation tax shall be exempt.

(a) Interest and commission on foreign currency bonds issued by the State, a local autonomous body, or any domestic corporation

(b) Interest and commission payable on foreign currency liabilities borrowed from a foreign financial institution, or eligible institutions carrying foreign exchange businesses, repayable in foreign currency by any foreign exchange bank

(c) Interest and commission on certificates of deposit in foreign currency from non-residents by a foreign exchange bank, and on notes issued or sold in foreign countries under the Foreign Exchange Control Law

(2) Tax exemption for dividend income from overseas resources development business (due to expire on Dec. 31, 2009)

If, there is any dividend income, out of the income for each business year of a domestic corporation, received by making investments on overseas resources development projects with the government's permission, corporation tax shall be exempt on the portion of the dividend income derived, and will be exempt in the respective country in which the investment is made.

4. Tax Incentives for Encouragement of Investment

The tax incentives below are basically provided to all businesses that meet the given objective conditions without any discrimination.

(1) Tax credit for investment in facilities for productivity enhancement (due to expire on December 31, 2009)

Where a resident or a domestic corporation invests in one of the following, 3% (7% in case of SMEs) of the investment amount shall be deducted from income tax and corporation tax.

- (a) Facilities for process improvement and automation
- (b) Facilities for advanced technology and skills
- (c) Facilities for ERP or e-commerce
- (d) Supply Chain Management system
- (e) Customer Relationship Management system
- (f) Utilization of ASP(Application Service Provider/Provision) instead of purchasing directly ERP, EC, SCM, CRM (7% only for SMEs.
- (g) Equipment for logistics management system

- (2) Tax credit for investments in environmentally friendly facilities and safety facilities (due to expire on Dec. 31, 2009)

Where a resident or a domestic corporation invests in one of the following, 7% of the investment amount shall be deducted from income tax and corporation tax.

- (a) Anti-pollution facilities
- (b) Non-pollution facilities
- (c) Facilities for prevention of industrial hazards
- (d) Mine safety facilities
- (e) Facilities for improvement of distribution industry, etc.
- (f) Facilities for HACCP (hazard analysis critical control point, etc.)
- (g) Facilities for prevention of the outflow of technology
- (h) Facilities for developing oversea resource

- (3) Tax credit for investment in energy saving facilities (due to expire on Dec. 31, 2008)

Where a resident or a domestic corporation invests in energy saving facilities, 10% of the investment amount shall be deducted from income tax and corporation tax.

(4) Investment Tax Credit granted temporarily to control business cycle

This tax credit was enacted to boost the economy by promoting investment in facilities for a certain period. Where a resident or a domestic corporation invests in business assets such as facilities and equipment to December 31, 2008, 7% of the investment amount shall be deducted from income tax and corporation tax.

(4) Special Tax Treatment for Investment in Overseas Resource Development

This tax treatment applies to the investment of foreign resource developers to acquire mining right. When the investment is applied to foreign corporations or foreign subsidiaries, 3% of their investment shall be deductible from corporation and earned income taxes.

5. Provisions Associated with Taxation on Reorganization

The provisions below were introduced to facilitate restructuring through the reduction of the tax burden that can be a hindrance to restructuring process such as business reorganization, re-engineering, and financial structure improvement. These provisions are not specific to any particular companies or industries.

Developed countries including the U.S. are also known not to levy tax on reorganization (so-called tax-free reorganization) when certain requirements are met.

(1) Consolidation between SMEs (due to expire on Dec. 31, 2009)

In the case of consolidation between two or more SMEs, there shall be no capital gains tax imposed on the real estate property transferred to the newly consolidated company. However, when the newly consolidated company sells the real estate property acquired from the consolidation, any capital gains from such sales shall be based on the price at which the real estate was acquired before the consolidation.

(2) Conversion from an individual to a corporation (due to expire on Dec. 31, 2009)

If a resident converts from an individual to a corporation (excluding luxury services), he or she may be eligible for tax deferral

with respect to income from investments in business assets prescribed in the Presidential Decree.

(3) In-kind contributions (due to expire on Dec. 31, 2009)

The term "in-kind contribution" refers to a method for corporate restructuring whereby a company makes an in-kind contribution of assets to a company to be newly incorporated in return for shares in the new company.

The shareholder company can defer the payment of the corporate income tax on any capital gains arising from the in-kind contribution until the company sells the acquired shares.

(4) Switching businesses by SME (due to expire on Dec. 31, 2009)

In case where a small or medium-sized company which has carried on business for 5 years or longer disposes of assets used for the business in order to switch from the business it has carried on to one of certain businesses prescribed by the Presidential Decree and acquires business asset to be directly used for the new business within a certain period of time, deferral of capital gains tax on capital gains from the transfer is allowed until the time of transfer of the newly acquired asset if the SME is an individual. If the SME is a corporation, such capital gains will be included in its gains over three years (one third of the capital gains for each year) from the third year following the end of the year in which the transfer takes place.

(5) Disposal of redundant assets resulting from M&A (due to expire on Dec. 31, 2010)

In case where a corporation created through merger sells any redundant asset resulting from the merger and acquires an asset for business purpose within a certain period of time, gains from the transfer of the redundant asset will be included in the company's gains over three years from the third year (one third of the capital gains for each year) following the end of the year in which the transfer takes place.

6. Tax Incentives for Balanced Development

Tax incentives below were introduced to effectively deal with problems such as pollution and traffic congestion in Seoul and metropolitan areas caused by concentration of population and industrial facilities in the area and to develop underdeveloped areas.

These tax incentives are provided to all enterprises that move away from Seoul and metropolitan areas that meet the objective criteria set out by relevant laws and regulations. Therefore, these tax incentives are not specific to particular enterprises or industries.

- (1) Tax Incentives for small and medium sized enterprises (SME) moving to areas outside the Seoul metropolitan area (due to expire on Dec. 31, 2008)

If a SME, which has been in the manufacturing business with plant facilities located in the Seoul metropolitan area for more than two years, moves such plant facilities out of that area, then it may be eligible for a 100% income tax or corporation tax reduction for five years, and a 50% income tax or corporation tax reduction for the subsequent two years.

- (2) Temporary special tax exemption for change of location of head office or corporate plant excluding real estate, luxury service and construction businesses (due to expire on Dec. 31, 2008)

If a corporation that has operated plant facilities for more than three years in a metropolitan area with a restriction in population growth, or one that has operated a head office for more than three years, moves plant facilities or its head office to a provincial area, regarding the entire tax rate for the next four years in addition to the year in which the change of location has occurred, 50% of the corporation tax for the next two years shall be exempt.

- (3) Reduction of income tax for corporations located in agricultural areas (due to expire on Dec. 31, 2009)

Where a resident or a domestic corporation operates a business in a designated agricultural area, the income tax or the corporation tax on the income from business shall be reduced by 50% for four years

including the year during which the income accrues for the first time.

The same tax incentives shall be provided to a SME that establishes its facilities in a government designated development zone.

- (4) Reduction of corporation tax for a farming company (due to expire on Dec. 31, 2009)

With respect to a farming company which is entrusted under the Basic Law on Agriculture and Rural Area, the corporation tax on any income derived from an agency business of farming management and cultivation of land shall be subject to the full tax amount, but for income from sources other than land cultivation, the tax shall be reduced by 50% for four years including the year in which the income is initially accrued.

- (5) Tax exemption for the capital gains from farmland transaction

When an individual who resides in a farmland area or where a domestic corporation has continuously cultivated farmland for more than eight years from the time of acquisition who is subject to the farm income tax (including the cases of non-taxation, tax exemption and reduction, and non-assessment of small sum tax), the income tax and additional tax on capital gains from the transfer of the above land is exempt.

7. Tax Incentives for Enhancement of Social Welfare

- (1) The following associations shall be taxed at 12%. (due to expire on Dec. 31, 2009)
- (a) Credit cooperative association and Saemaeul funds
 - (b) Unit agricultural cooperative association and special agricultural cooperative association
 - (c) Fisheries cooperative association established on an area basis or on an industry basis and fisheries products manufacturing cooperative associations (including fishing village guilds)
 - (d) Cooperative associations, small cooperative associations, and the federation of cooperative associations established under the Small and Medium Enterprise Cooperative Association Law
 - (e) Fraternities and associations established under the Forest

Association Law

- (f) The tobacco production association
- (g) Consumer Association established under the Consumer Association Law

(2) Tax reduction for income from forest development

Income from forest older than 10 years is reduced by 50% from income tax or corporation tax.

(3) Tax exemption including corporation tax on social enterprises

When a company is accredited as a social enterprise, the company is eligible for 50% deduction of corporation tax for 4 years after the accreditation.

8. Tax Incentives on Interest and Other Income

(1) Non-taxable interest and dividend income

- (a) Long-term savings accounts for purchasing housing units
- (b) Interest income from deposits of less than 20 million won and dividends from partnerships of less than 10 million won for farmers and fishermen
- (c) Interest income from savings account of 30 million won or less held by the elderly, the disabled, etc.
- (d) Dividend income from holding shares worth 300 million won or less in a ship investment company
- (e) Dividend income from holding shares worth 300 million won or less in a company investing in overseas resources development projects

(2) Reduced withholding rates on interest and dividend income

- (a) Interest or dividend income from tax-favored savings account of 20 million won or less is subject to a reduced withholding rate of 9%. (due to expire on Dec. 31, 2008)
- (b) Dividend income derived by Korean residents, non-resident individuals or foreign companies from investment in a fund which

invests in more than 10% of its assets in junk bonds* and more than 60% in domestic bonds is subject to a reduced withholding rate of 5%, as long as their investment amount in the fund is 100 million won or less**. (due to expire on Dec. 31, 2009)

* Junk bonds: bonds rated BB+ or lower

**There is no such condition in terms of investment amount required to be met for non-resident individuals or foreign companies to benefit from this tax incentive.

9. Zero-Rating of Value-Added Tax

In the case of value-added tax on the supply of goods under the following items, the tax rate of zero shall be applied.

- (1) Military supplies including those for police that are supplied by military supply enterprises
- (2) Petroleum products supplied to the units or agencies established by the Armed Forces Organization Law
- (3) Subway construction services
- (4) Social infrastructure facilities and building projects entailed therein supplied to the government, local authorities, Korea Rail Network authority or business under the law of the Private Investment for Social Infrastructure.
- (5) Complementary gear for the disabled
- (6) Machinery, fertilizer, and pesticides used for agriculture and forestry
- (7) Machinery, fishing gears, and nets used for fishing in adjacent seas or inland waters
- (8) environment-friendly agricultural instruments

10. Exemptions of Value-Added Tax

- (1) Value-added tax shall be exempt on the supply of goods or services for the following items.
 - (a) Petroleum products supplied directly to the Central Federation of Fisheries Cooperatives for use in auxiliary private power generation for island areas where it is impossible or difficult for a considerable period for any general electricity businessperson to

supply electricity

- (b) Meal services supplied directly to students or employees by a school, a factory, a mine, a building site, and a welfare refectory
- (c) National housing and its construction service
- (d) Petroleum products supplied to the Korea Shipping Association for use by passenger boats operated in coastal waters
- (e) Public transportation (buses) operating on natural gas
- (f) Medicines for rare diseases specified in the Presidential Decree

(2) Value-added tax shall be exempt on the import of the following items

- (a) Anthracite coal
- (b) Goods to be used for subway construction
- (c) Ships to be used for business subject to tax in Korea

(3) Tax credit is allowed for businesspersons who file an increased revenue income that exceeds the standard revenue income by thirty percent.

(4) Where a foreign company or non-resident without a place of business in Korea who carries out business abroad is provided with goods or services such as foods, accommodation, advertising service, office supplies for domestic office while doing business in Korea, the goods and services are provided at tax-included prices and then amounts equivalent to the sum of value-added taxes of those goods and services are refundable by the Korean government to a foreign company or non-resident.

11. Exemptions of Individual consumption tax or Transportation·Energy·Environment Tax

(1) The goods purchased by a foreigner in Korea shall be exempt or refunded from the value-added tax or the individual consumption tax, provided that the purchaser withholds them abroad.

(2) Individual consumption tax shall be exempt on the following goods that are hard to be produced domestically thus imported.

- (a) Goods to be used directly by public corporations such as Korea Institute of Science and Technology, Korea Development Institute, and Korea Spiritual Culture Research Institute
 - (b) Goods to be used for education in a vocational school
 - (c) Equipment and materials to be used directly by the Korea Broadcasting System Corporation
 - (d) Raw materials to be used by a person engaging in the defense industry
 - (e) Samples for experiment and research to be used by Industrial Technology Research Association or a research institute affiliated to an enterprise
 - (f) Goods for research to be used by a research institute that is categorized into non-profit corporation
- (3) Individual consumption tax shall be exempt on Korean-made automobiles purchased by diplomats stationed in Korea, Korean-made automobiles purchased by any foreign voluntary aid agency registered by an agreement for its business.
- (4) Petroleum products prescribed in 9 (2) and 10 (1) (e), (f) shall be exempt from the individual consumption tax or transportation·energy·environment tax.
- (5) Goods to be used by the Organizing Committee of the 2002 World Cup Football Tournament for the construction of game facilities shall be exempt from the individual consumption tax.

12. Exemptions of Liquor Tax

Liquor tax on alcoholic beverages served at special restaurants exclusively for use by foreign military personnel stationed in Korea and foreign crews shall be exempt.

13. Limit on Tax Incentives

(1) Partial Exclusion of Tax Incentives

- (a) A resident or domestic corporation purchasing facilities or equipment can adopt only one of the following provisions that grant tax credit with the purpose of encouraging investment.

- Related provisions: 1 (2) (3), 4 (1) (2) (3) (4)

(b) In case a resident or a domestic corporation adopts a provision from one of the two groups below, the provision in the other group shall not be applicable.

- Group of Tax Credits: 4 (1) (2) (3) (4)

- Group of Tax Reductions: 1 (2) (3), 6 (1) (2) (3) (4) (5)

(c) A resident or a corporation operating businesses in the same workplace is allowed to adopt only one of the following provisions that grant tax reduction.

- Related provisions: 1 (2) (3), 6 (1) (2) (3)

(2) Minimum Tax Systems

(a) A taxpayer should pay a minimum tax as follows, even if he or she is granted the tax incentives under the current Special Tax Treatment Control Law.

* Applicable taxes

- For a corporation: Corporation income tax (excluding penalty tax and back tax prescribed by the Presidential Decree)

- For an individual: Business income tax

(b) Minimum tax to be paid

- For a corporation, 15% (13% up to 100 billion won of tax base, 10% in the case of SMEs) of tax base before considering applicable tax incentives.

- For an individual, 35% of tax amount before considering applicable tax incentives.

(c) Tax to be added after calculating the minimum tax

- Penalty tax

- Penalties under the STTCL

- Reassessment tax under the STTCL

(d) Tax creditable after calculating the minimum tax

(e) Foreign tax credit

- Credit for losses arising from disaster

- Farmland tax credit (only for corporations)

- The full amount of R&D tax credit (for SMEs)

- The amount of R&D tax credit for expenses on hiring master and doctoral degree holders (for non-SMEs)

(3) The ceiling of total tax incentives for capital gains

For an individual, an exemption amount of capital gains accruing from transactions of real estate shall be given within the limit of 100 million won based on tax amount per year. If the exemption amount exceeds 100 million won, the portion exceeding that amount is not exempt.

14. Foreign Direct Investment

In the aftermath of the Asian financial crisis, the government has been advocating a series of comprehensive reform measures in the corporate, financial, and labor sectors to address some of the more fundamental problems in the economy. Because stimulating foreign investment and injecting market competition into the domestic economy are believed to be critical to the success of the reform drive, the government has accelerated market liberalization in such areas as mergers and acquisitions (M&A), securities, capital transactions, foreign exchange, and the real estate market, virtually opening up all of the previously restricted markets to both portfolio investment and foreign direct investment (FDI).

With respect to FDI which entails acquisition of a controlling interest in a foreign firm or affiliate (e.g., a branch or subsidiary) unlike the passive and interest-driven portfolio investment, the enactment of the Foreign Investment Promotion Law (FIPL) in September 1998 is noteworthy. The principal objective of FIPL is to attract FDI by:

1. eliminating burdensome regulations and anti-competitive market restrictions;
2. creating a more liberalized, transparent and favorable business environment for foreign businesses and investors; and
3. expanding tax incentives such as tax exemptions and reductions for extended periods.

The tax incentives granted to FDI under the FIPL, which was subsumed into the Special Tax Treatment Control Law (STTCL) on May 24, 1999, are primarily aimed at attracting high-technology and large-scale manufacturing investment, and include partial and full exemptions on individual and corporate income taxes and local taxes. Full exemptions from customs duties, individual consumption tax, and value-added tax (VAT) may also be granted to imported capital goods.

To be eligible for the tax incentives provided by the STTCL, a foreign investor must either retain at least 10% of the outstanding shares of the invested company (foreign-invested company) where the ownership of the outstanding shares is less than 10%, or exercise managerial control by an investment agreement or under a similar arrangement with the foreign-invested company.

15. Tax Incentives for FDI

Under the regime of the Special Tax Treatment Control Law, FDIs in the businesses that are expected to support the international competitiveness of domestic industry, when specific conditions are met, are exempted from taxes including corporate tax.

(1) Exemptions for advanced technology FDIs

Tax	Incentives
Individual and corporate income taxes	Full exemption for 5 years, 50% reduction for next 2 years
Local taxes: acquisition, property, aggregate land, registration	Full exemption for 5 years, 50% reduction for next 2 years (local governments can extend the applicable period up to 15 years)
Customs duties, individual consumption tax, value-added tax	Full exemption for 3 years on imported capital goods by foreign-invested companies

* Exemptions are granted to applications after January 1, 2005.

(2) FDIs entering Foreign Investment Zone (FIZ)

Tax		Incentives
Period of application	Individual and corporate income taxes	Full exemption for 5 years, 50% reduction for next 2 years
	Local taxes: acquisition, property, registration	Full exemption for 5 years, 50% reduction for next 2 years; (up to 15 years)
	Customs duties, individual consumption tax, value-added tax	Full exemption for 3 years on imported capital goods by foreign-invested companies
	Manufacturing business	\$30 mil. or more

Conditions for application	Tourism business	\$10mil. or more
	Logistics business	\$10mil. or more
	Research centers	\$5 mil. or more, hiring 10 or more master degree holders
	SOC business	\$10mil. or more
	Two or more foreign businesses	In case the area of investment of at least \$30mil. by two or more foreign invested businesses is designated as FIZ

(3) FDIs entering the Free Economic Zone(FEZ), Free Trade Zone, or Industrial Complex Exclusively for Foreign Companies.

Tax		After FIPL
Period of application	Individual and corporate income taxes	Full exemption for 3 years, 50% reduction for next 2 years
	Local taxes: acquisition, property, registration	Full exemption for 3 years, 50% reduction for next 2 years (local governments can extend the period up to 15 years)
	Customs duties	Full exemption for 3 years on imported capital goods by foreign-invested companies
Conditions for application	Manufacturing business	\$10 mil. or more
	Tourism business	\$10mil. or more
	Logistics business	\$5mil. or more

(4) FDIs entering the Development District of Enterprise New town

Tax		Incentives
Period	Local taxes	Full exemption for 3 years, 50% reduction for next 2 years
	Local taxes: acquisition, property, registration	Full exemption for 3 years, 50% reduction for next 2 years (local governments can extend the period up to 15 years)

of application	Customs duties	Full exemption for 3 years on imported capital goods by foreign-invested companies
Conditions for application	Manufacturing business, etc.	\$10 mil. or more
	Research & Development	\$5 mil. or more
	Logistics business	

Foreign businesses and investors making investments in local companies for the first time may also request tax exemptions and/or reductions on individual and corporate income taxes by the end of the fiscal year in which the business begins. Where additional investments are made after the initial one, further requests may be made within two years from the date of notification of the FDI. When a late request is made, the exemption or reduction will apply to the year the request form is submitted and the years remaining.

As an incentive to potential investors in Korea, the FIPL also introduced a Tax Exemption and Reduction Checking System, which enables foreign businesses and investors to determine their tax benefit eligibility with the government prior to making any FDI commitments in Korea. Requests for tax exemptions and reductions for FDI are to be decided by MOFE after the consultation with relevant government authorities.

16. Tonnage Taxation System

Originally shipping income from a shipping company is computed based on the corporation tax. However, as major shipping nations rushed to introduce tonnage taxation system that imposes tax by reference to such as total tonnage of shipping operation and the number of shipping operation regardless of its actual income, Korea decided to introduce tonnage-based taxation system in order to enhance international competitiveness. Under the new regime, a shipping company, which meets a certain requirement, will have to elect to be taxed based on the tonnage taxation system.

- (1) Qualification: A qualifying company is a domestic company, which carries on ocean-going service under the shipping act and the total tonnage of shipping operation per year by chartered ship (chartered less than 2 years) shall be within 5

times of that of shipping operation per year by a standard ship (owned by a company or chartered for 2 years or more).

(2) Tax base

Tax base of a shipping company = (a) + (b)

(a) Sums of shipping income per ship

Shipping income per ship: shipping standard profit

Shipping standard profit per ship =
(Tonnage per ship x profit per ton per day) x days of operation x utilization rate.

(b) Non-shipping operation income (income other than shipping income): an amount of income calculated based on the provisions of corporation tax law.

(3) Application period

A shipping company, which elects to be taxed on the tonnage taxation system, will be subject to the system for the consecutive five years beginning from the business year, in which it wish to be applied with this regime.

(4) Net operation loss (NOL)

NOL incurred from non-shipping income shall not be included in the computation of a tax base of a shipping company under the tonnage taxation system. Also NOL incurred before a shipping company is subject to this regime shall not be deductible in the computation of shipping and non-shipping incomes.

(5) Exclusion of special treatment

Where income subject to withholding tax is included in the shipping income, the withheld tax amount shall not be deductible as pre-paid tax.

17. Adjustment of Double Taxation on Dividend Paid by Partnership Member in Knowledge-based Industries.

Dividend paid by a company taking the form of partnership in knowledge-based industries to its domestic partners until December.31. 2008 is excluded from the company's taxable income. This is an optional regime. Thus, to be qualified for such exclusion, a company should elect this tax scheme and a company, which does not apply for the exclusion of such dividend, is subject to corporate tax as before.

Dividend received at the hands of partner is subject to 30 percent of withholding tax and is included in the global income. However, these dividends are not included in determining whether a taxpayer is subject to global financial income tax or not.

Examples of knowledge-based industries include engineering service, research and development, computer and telecommunications.

18. Cash Receipt System

Details of cash transaction between a vendor issuing receipts and a consumer are reported to NTS by the vendor and the customer is allowed deduction from income on his or her tax return based on the amount of cash transactions. This regime is introduced to improve compliance of the self-employed.

(1) “Cash Receipt”

Where a vendor who registers as a cash receipt member receives cash in compensation for services and goods rendered to a customer, the vendor is obliged to issue to the consumer cash receipts using electronic devices through which transactions are electronically reported to National Tax Service. The threshold for issuing cash receipt has been eliminated in accordance with Paragraph 3 Article 121 of the enforcement decree of Special Tax Treatment Control Law. All transactions are entitled to the issuance of cash receipt.

(2) Vendor’s obligation and tax benefit

1. Vendor’s obligation: A vendor is required to send electronically to the head of NTS details regarding cash transactions such as the date and amount of transactions, and personal data of consumers and vendor.

2. Vendor’s tax benefit: A vendor who is approved by the head of NTS through cash receipt deliberation committee, is allowed to get deductions from paid VAT or get refund by reference to the number of cash receipt issuing devices and the number of cash receipts transaction.

19. Alternative Minimum Tax (AMT)

Where the tax burden of a company or a resident (or non-resident) falls short

of the AMT, the difference is disallowed from tax exemption or reduction. This is to impose a certain level of tax burden by precluding excessive tax exemption or reduction.

(1) Corporation tax

(a) Scope of application

Domestic company's corporation tax and foreign company's corporation tax imposed on income (limited to global income taxation) derived from Korea are subject to the AMT.

(b) Application method

Where calculated tax amounts taking into account tax exemption or reduction subject to AMT is smaller than AMT computed by the below formula, the difference shall not be granted tax exemption or reduction.

AMT = Tax base not taking into account exemption, non-inclusion of gains, reserve, depreciation under special treatment, income deduction subject to AMT **times** 13% (15% for amounts in excess of 100 billion won)

* In the case of SME 10%

(2) Income tax

(a) Scope of application

Income tax levied on business income of residents and income tax on business income derived from fixed base in Korea of non-resident are subject to the AMT.

(b) Application method

Where calculated tax amounts taking into account tax exemption or reduction subject to AMT is smaller than the AMT computed by the below formula, the difference shall not be granted tax exemption or reduction.

AMT = tax amounts calculated from the tax base not taking into account reserves,

depreciation under special treatment, income deduction subject to AMT **times** 35%.

20. Earned Income Tax Credit (EITC)

(1) Background

Currently, the working poor who are employed but still live in poverty mostly are not under the protection of 4 major social insurance programs and the Scheme to Guarantee Minimum Level of Living Standard. Therefore they are in need of separate assistance.

Against this backdrop, the earned income tax credit (EITC) has been introduced with a view to establishing a social safety net targeting the working poor. The EITC is expected to provide the following benefits:

- Lift low-income workers out of poverty by helping them keeping more of what they work for
- Reinvigorate economic activities, thereby contributing to the creation of a virtuous circle of welfare and growth
- Help identify as much as income earned by low-income families, enhancing efficiency/ equity of tax and welfare administration

Enacted in 2006, the EITC is scheduled to be paid from the year 2009 for which the credit will be calculated based on earned income accumulated by each claimant in 2008.

(2) Eligibility

In the initial stage, the EITC will be granted to households with earned income from employment which meet the following requirements:

- Must have two or more dependent children under age 18;
- Must have total annual income* of less than 17 million won;
- * interest, dividend and business income etc. included
- Value of all property* held must be less than 100 million won; and
- * e.g. land, building, bank deposit, shares, bonds, etc.

- Must own no housing

(3) Size of Credit

Eligible household is granted the EITC of up to 800,000 won per year. The amount of the credit is calculated based on the sum of taxable earned income from employment of the taxpayer and his/her spouse.

Annual earned income from employment (X)	Stage	Credit
0-8 million won	Phase-in	10% * X
8 million won-12 million won	Plateau	800,000 won
12 million won-17 million won	Phase-out	16% * (17 million won-X)

(4) Application and Refund

To receive the EITC, taxpayers have to complete and submit the EITC application form containing information that substantiates their eligibility to the tax office having jurisdiction over their residence during the period from 1st to 31st of May.

Within 3 months after the deadline, the tax office concerned determines the applicant's eligibility by comparing what has been reported on the application form with the wage and tax statement submitted by the employer. If necessary, the tax authorities may request the applicant to submit additional documentation substantiating his/her eligibility for the EITC. Once it is determined that the applicant is entitled to the credit, the credit is paid to him or her within 30 days from the date of determination.

Taxpayers are able to check their earned income with the help of the Home Tax Service operated by the National Tax Service, and can also easily figure the amount of the EITC to claim by utilizing the EITC Calculation Table showing the breakdown of tax credit amount for each earned income amount.

(5) Fraudulent claims

In case of reckless or intentional disregard of the EITC rules, the applicant concerned cannot claim the credit for the next 2 years. If fraud is found to have been involved, the applicant cannot claim the EITC for the next 5 years.

21. Special Tax Treatment of Partnership
(Take effect on or after January 1st, 2009)

(1) Entities Affected

When one of the following partnerships applies for Special Tax Treatment of Partnership, the treatment will be provided. (Partnership means a group, which more than two people venture and manage a joint business to receive profit and loss arising from the business.) But partners, who benefit from the treatment, are not eligible for the treatment in the capacity of partnership.

- (a) An association (*Johap* under the Civil Law)
- (b) An anonymous association (*Ikmyong Johap* under the Commercial Code)
- (c) An unlimited company (*HapmyongHoesa* or *HapjaHoesa* under the Commercial Code)
- (d) And other similar groups or groups mostly rendering personal services under special law:
 - Association: legal association
 - unlimited company: legal, patent and labor law corporations and joint corporations of judicial agents
 - YH company (Yuhan Hoesa): legal, accounting and customs law corporations

(2) Application for the Treatment or Waiver

Partnership is required to file an application or waiver form to the concerned tax office before the opening day of taxable year when special treatment is to be applied or waived. (This treatment is newly adopted. If the treatment is to be effective from the first taxable year, application needs to be filed within one month from the opening day of the first taxable year.) But waiver is not allowed for five years since the application is filed.

(3) Taxation

A partnership entitled to the treatment is not subject to income or corporate tax on its income. Partners are obliged with income or corporate tax on the income distributed from their partnership.

(a) Allocation of Income or Loss

Partners are categorized into four Partner Groups (resident, non-resident, domestic Corporation and foreign corporation.) Income and loss are calculated by each group and distributed to partners according to its profit/loss allocation ratio on the closing day of taxable year. But passive investment partners would be excluded from the allocation of losses.

Loss is distributed on the closing day of the taxable year at the price of up to outside basis. The loss exceeding the outside basis is carried over five years within the limit of outside basis.

Partners regard their distributed income and loss as income and loss under the income and corporate tax laws. (But passive investment partner's income is considered dividend income.) They are included as income and corporate tax base in the concerned taxable year when partnership's closing day of taxable year belongs to.

* Each group's income or loss (subject to distribution)

= partnership's income or loss on a group basis \times each group's profit/loss ratio

Partnership's income or loss on a group basis

= calculated income or loss in the concerned taxable year by considering partnership as one resident· non-resident· domestic corporation· foreign corporation on a group basis

Profit/loss ratio on a group basis

= the aggregate of partners' profit/loss ratios on a group basis

* Passive investment partner : partners who do not engage in management and only venture (excluding people who allow their name and business' name to be used, people who agree to bear partnership's unlimited liability and executives or the equally treated people)

(b) Allocation of Tax Liability

A partnership is considered a domestic corporation in calculating tax credits· exemptions, withholding tax, additional tax and corporate tax on capital gains including land. They are distributed to partners according to profit/loss ratio on the closing day of each taxable year.(Corporate tax on

capital gains including land is limited to domestic and foreign corporation partners.) When a partner files and pays the income tax or corporate tax of the year where the closing day of the taxable year belongs to, the distributed amount is deductible from the partner's income and corporate taxes or added to the partner's income and corporate taxes.

(4) Transactions between Partnership and Partners

In case where a partner trades with a partnership as the third party not as a partner, the partner and partnership include the transaction's profit/loss as gain/loss when calculating the taxable year's income. In that case, the partnership and the partner are considered related parties. When a partnership or a partner turned out to reduce their income unfairly, the Denial of Unfair Practice under the Corporate Tax Law (Article 52) will enforce.

(5) Transfer of Partnership Share and Asset Distribution

(a) Outside Basis Adjustment

In case where a partner ventures a partnership, a partner buys, inherits or gifts the share of partnership, or a partner receives a share of partnership's income, the partner's outside basis is adjusted upward.

In case where a partner receives a share of asset from a partnership, a partner transfers, inherits or gifts the share of partnership, or a partner receives a share of partnership's loss, the partner's outside basis is adjusted downward. But the downward adjustment is limited to zero.

(b) Transfer of Partnership Share and Asset Distribution

When partnership's share is transferred to a partner, that is considered stock transfer. Its capital gain is calculated by considering outside basis as acquisition cost. The gain is subject to capital gains tax or corporate income tax.

When partnership's asset is distributed to a partner and its market price is higher than the partner's outside basis on the day of distribution, the excess is considered dividend income and subject to income or corporate tax.

When the market price of distributed asset is lower than the partner's outside basis on the day of distribution, the shortage is considered stock loss as long as the partnership ends due to liquidation, separation and merger or the partner withdraws from the partnership.

(6) Reporting Obligation of Income and Distribution Return

A partnership is required to report a taxable year's income and distribution return to the head of the competent tax office by the 15th day of the month, which is three months after the month when each taxable year's closing day belongs to. (Balance sheet, income statement and outside basis adjustment statement in accordance with corporate accounting standards need to be attached.)

In case where a partnership violates reporting obligation, penalty tax will be imposed : 4% of the income supposed to be reported in the case of non-reporting, 2% of income in the case of under-reporting.

(7) Withholding Tax Obligation on Income Allocated to Non-resident or Foreign Corporation Partners

When a partnership files a taxable year's income and distribution return

(when distributing in the case of distributing non-reported amount), the highest tax rate will apply (non-resident 35%, foreign corporation 25%) if the income distributed to a non-resident or a foreign corporation partner belongs to the domestic place of business (the place where a partnership runs a business) in the year.

Unless the income does not belong to domestic place of business, withholding tax rate will apply to a non-resident or a foreign corporation partner despite non-taxation, exemption and Alternative Minimum Tax (AMT) rate under tax treaty.

According to the above-mentioned tax rates, income or corporate income tax are required to be withheld and paid to the head of competent tax office.

When a non-resident · foreign corporation partner (who received the income, which does not belong to domestic place of business and whose tax has been withheld and paid) wants to benefit from non-taxation, exemption or AMT under tax treaty, claiming for revision is possible within three years from the last day of the month when tax-withholding day belongs to.

In case where a partnership violates withholding tax obligation, penalty tax will be imposed: {the greater one between [unpaid or underpaid tax liability × the number of days (from the next day of the due date for payment to voluntary payment day or to due date for payment notice day) × 0.03%/day)] and [unpaid or underpaid tax liability × 5%] , the maximum is [unpaid or underpaid tax liability × 10%] }

Part 8: International Taxation

Chapter XVI: Non-Resident Income Taxation

1. Taxation on Business Income (Profits)

a. Taxation Rules Provided by Domestic Tax Laws

(1) Definition of Domestic Place of Business (Permanent Establishment)

In general, Korean tax treaty cannot be applied in a way that gives rise to more tax burden to taxpayers than stipulated in domestic tax laws. Therefore, the scope of the Domestic Place of Business found in Korean tax laws needs to be wide enough to cover the concept on Permanent Establishment or on Fixed Base of the UN Model Tax Treaty so that no problem is caused in the application of tax treaties even when Korea has to adopt the languages of PE from the UN Model Tax Treaty, accepting requests from the other contracting state in tax treaty negotiations. This explains that the definition of a domestic place of business found in Korean domestic laws is mainly based on the concept of a permanent establishment or on a fixed base specified in the UN Model Tax Treaty.

If a nonresident (including a foreign corporation) has a fixed place of business in Korea of a type described in the following subparagraphs (a) through (e), he is deemed to have a domestic place of business in Korea:

- (a) A branch or any other business office;
- (b) A store or any other fixed sales place;
- (c) A workshop, factory, or warehouse;
- (d) A building site, a location of construction, assembly or installation work, or a place for providing supervision of such work, any of which exists for more than 6 months; or
- (e) A place for providing service through an employee for a period exceeding 6 months in aggregate out of any 12 consecutive month period.

The domestic places of business prescribed in the preceding paragraph do not include a fixed place used by a non-resident only for activities of a preparatory or auxiliary nature for a business operation, e.g. places (i) for the purchase of assets; (ii) for storage or custody of assets for non-business purposes; (iii) for advertisement, public relations, collection or furnishing of information, market survey or other activities of a preparatory or auxiliary nature for a business operation; or (iv) for the purpose of having other persons process property of the non-resident.

If a non-resident having no fixed place in Korea carries on a business through a person in Korea who is authorized to conclude, and regularly does conclude, contracts on behalf of the nonresident, such nonresident is deemed to have a place of business in Korea.

(2) Scope of Domestic-source Business Income (Profits)

Korea's domestic-source business income of a nonresident (including a foreign corporation) includes income from the following businesses carried on within Korea and income subject to tax as domestic-source business income under a tax treaty, except for income from personal services.

- ① Livestock, forestry and fisheries
- ② Mining and quarrying
- ③ Manufacturing
- ④ Electricity, gas and water services
- ⑤ Construction business
- ⑥ Wholesale and retail trade and repair business for consumer products
- ⑦ Operation of hotels and catering
- ⑧ Transportation and communications

- ⑨ Banking and insurance
- ⑩ Real estate business, leasing and business service
- ⑪ Education service
- ⑫ Health and social welfare services
- ⑬ Social and individual services
- ⑭ Household services

(3) Guiding Principles for Determining the Portion of Domestic Source of Business Income (Profits)

Since a nonresident's income from a business carried on both at home and abroad usually consists of domestic-source portion and foreign-source one, there is a need for guiding principles to ensure taxation on only domestic-source business income. Thus, instead of relying on a general principle such as the "arm's length principle", Korean domestic tax laws provide some detailed guidelines by which certain income is deemed to arise in Korea. Examples are as follows:

① Income from manufacturing business or wholesale business

Where inventories are transferred from abroad to a nonresident (including a foreign company) and the nonresident sells them within Korea without conducting any manufacturing, processing and any other value-adding activities (hereinafter referred to as "manufacturing process") abroad for such inventories, whether or not such inventories go through manufacturing process within Korea before selling, all income or profits generated from the transactions are deemed to have a domestic-source.

In case the nonresident purchases inventories abroad and sells them within Korea after conducting manufacturing process abroad for those inventories, the income amount equivalent to what would have been incurred had he purchased,

according to ordinary transaction terms, from an unrelated party the inventories to which manufacturing process had been already conducted by that unrelated party is deemed to be domestic-source income.

If the nonresident conducts manufacturing process for the inventories within Korea and transfers them to the headquarter or any other PE abroad before selling them to an independent third party abroad, the income amount equivalent to what would have been incurred from manufacturing process done within Korea if the inventories undergoing manufacturing process at home had been sold directly to other unrelated person abroad according to ordinary transaction terms is deemed to be domestic-source income.

② Income from construction business

Where a nonresident concludes a contract abroad with regard to construction, installation, assembly, etc. and/or procures staff and materials necessary for the work while undertaking actual works within Korea, all income incurred from such actual works is deemed to have a domestic-source. This rule is based on the premise that since construction business is basically a type of service industry, the conclusion of a contract or procurement of staff and materials can be regarded as one of the preliminary business activities and, thus, is deemed to generate no income. This naturally leads to a conclusion that taxation on business income regarding construction activities should be made in a state where actual services are performed.

③ Income from insurance business

Where a nonresident carries on insurance business both at home and abroad, income from an insurance contract concluded through domestic sales office or a domestic agent is deemed to be domestic-source income.

④ Income from advertisement by publishing and broadcasting businesses

Where a nonresidents carrying on publishing or broadcasting business undertakes advertisement for other person both at home and abroad, only income from advertising services rendered within Korea is regarded as domestic-source income.

⑤ Income from investment in shares issued by foreign corporations

Income resulting from investment in shares issued by foreign corporations which are listed or registered on the Stock Exchange stipulated by the Securities Transaction Law or the KOSDAQ Market or other similar investment is deemed to have a source in Korea.

⑥ Income from other businesses

Where a nonresident carries on business not dealt with above both at home and abroad, only income generated in relation to domestic work regarding the business concerned is deemed to have a domestic-source. Income generated in relation to domestic work means income which would be generated in relation to domestic work if two independent traders were responsible for domestic and international work respectively and they conducted a transaction at price to be determined based on ordinary contract terms. Income generated in relation to domestic work may also be understood as income in relation to domestic work determined by factors which are regarded as reasonable for measuring revenue, expenditure or income, etc..

(4)Income incurred abroad but attributable to a PE within Korea

If the following income, although incurred abroad, is attributable to a PE in Korea, such income is deemed to be of domestic-source.

- ① Income from investment in overseas securities, lending to a person abroad or performance of other similar activities
- ② Income from the rental, licensing, transfer or exchange of properties or rights abroad
- ③ Income from the issuance, acquisition, transfer or exchange of securities, bonds, etc. abroad

b. Taxation Principles Adopted by Korean Tax Treaties

Most Korean tax treaties have adopted the OECD taxation principles with regard to Article on business profits. When it comes to Article on Permanent Establishment, however, not only the OECD Model but also the UN Model has been frequently used as reference material in tax treaty negotiations, causing differences in details of the Article.

(1) Scope of Business profits

In most Korean tax treaties, business profits are just broadly defined as “profits of an enterprise” or “industrial or commercial profits of an enterprise” unlike limited definition in the Korean tax laws. However, such treaties do limit the scope of business profits by specifying that when such profits are dealt with separately in other articles, then the provisions of those articles shall not be affected by the Article on business income.

Therefore, interest, dividends, royalties, income from immovable property, capital gains, income from the rendering of personal services, income from the operation of ships or aircraft in international traffic, etc. which are handled in separate articles of a tax treaty are not treated as business income even when they are incurred from business activities of an enterprise. It should be noted, however, that in case such interest, dividends or royalties are effectively connected with a PE in Korea of a

nonresident or a foreign company such income is deemed as business profits and thus not subject to separate taxation based on reduced tax rate under a tax treaty.

(2) Taxation Principles Adopted by Tax Treaties

① Non-taxation in case there is no PE

While domestic-source business profits of a nonresident may be taxed even without its PE in Korea under the Korean tax law, such profits may be taxed in Korea only when the nonresident has a PE in Korea under tax treaty.

② Scope of taxable income

There are two principles for the determination of the scope of taxable business income of an enterprise of a contracting state which has a PE in the other contracting state: the attribution principle and the force of attraction rule.

According to the attribution principle, business profits of the enterprise that is effectively attributable to the PE may be taxed in the other contracting state. By contrast, according to the force of attraction rule, all business profits incurred in that other contracting state may be taxed in that state regardless of whether such profits are attributable to the PE or not. All tax treaties Korea has concluded have adopted the attribution principle except for ones with Indonesia and Mexico. In the meantime, under the tax treaty with Japan, the attribution principle applies to profits of the taxable year beginning on or after the first day of January of 2000, while the force of attraction rule applies to profits of the taxable year beginning before the date.

③ Arm's length principle

According to the arm's length principle, profits attributable to a PE should be

determined based on profits that would have been expected from a transaction between independent enterprises. From legal perspective, a PE is a part of the enterprise and thus transaction between the two is inter-company transaction, meaning that there are more chances of tax avoidance attempts by way of arbitrary manipulation than in the transaction between independent parties. The arm's length principle is designed to eliminate such chances, thereby help determine reasonable profits attributable to the PE. According to this principle, profits attributable to a PE mean profits which it might be expected to make if it were a distinct and separate enterprise and carried out a transaction with the enterprise which it is part of based on ordinary market price or open market terms. The arms' length principle has been adopted by all tax treaties Korea has concluded.

④Deduction of expenses

In determining the profits of a PE, there shall be allowed as deductions expenses which are incurred for the purposes of the PE, including executive and general administrative expenses so incurred, whether in the state in which the PE is situated or elsewhere and this principle has been adopted in all tax treaties Korea has concluded. Among expenses of a head office of the enterprise which a PE in Korea is part of, expenses which are directly incurred for the purposes of the PE are no doubt allowed as deductible expense in determining its taxable profits. When it comes to indirect expenses incurred in the head office such as executive and general administrative expenses, they are incurred not only for purposes of the PE in Korea but also for the purposes of other PEs or departments of the enterprise, and, thus, the portion attributable to the PE concerned shall be determined according to the factors (such as sales amount, assets value, personal expenses) by which fair amount of expenses of the PE is reasonably estimated.

⑤Non-taxation principle in case of the mere purchase by a PE

This principle, adopted by most Korean tax treaties, means that no profits

shall be attributed to a PE by reason of the mere purchase by that PE of goods or merchandise for the enterprise. For example, even if a branch in Korea of a Japanese corporation merely purchases goods or merchandise within Korea for its overseas branch (located in a state other than Korea), paragraph 5 of Article 7 of the Korea – Japan Tax Treaty shall apply and, as a result, no profits will be regarded as being attributable to the PE in Korea by reason of such mere purchase.

2. Taxation on Investment Income

a. Taxation on Interest Income

(1) Taxation Rules Provided by Domestic Tax Laws

① Domestic-source interest income

Interest income derived by a nonresident (including a foreign company) under the Korean tax law is taxable in Korea in case where it is received by the nonresident from Korean government, local authorities, residents (including domestic corporations), PEs in Korea of foreign corporations or nonresidents. Where the person paying the interest has in a state a PE in connection with which the indebtedness on which the interest is paid was incurred, and such interest is borne by such PE, then such interest shall be deemed to arise in the state where the PE is situated. However, interest on loans borrowed directly by a foreign place of business of a domestic corporation or resident for that foreign business place is excluded from the scope of domestic-source interest income.

Detailed items of domestic-source interest income are stipulated in domestic tax laws as follows:

- (i) Interest and discounts on bonds or securities issued by the state, local authorities, or domestic corporations
- (ii) Interest and discounts on savings deposits payable in Korea
- (iii) Gains realized from mutual credit financing (*kye*) or credit installment savings under the Mutual Credit Financing Institution Law
- (iv) Gains realized from a domestic interest-yielding trust as prescribed in Article 23 of the Presidential Decree of the Income Tax Law (ITL)
- (v) Interest and discounts on debentures or securities issued by any branch or business office in Korea of a foreign corporation
- (vi) Interest and discounts on debentures or securities issued by a foreign corporation
- (vii) Gains realized by security companies from repurchase arrangements involving bonds or stocks having a fixed repurchase term and a predetermined interest rate as prescribed in Article 24 of the Presidential Decree of the ITL
- (viii) Gains realized from certain savings-type insurance policies as prescribed in Article 25 of the Presidential Decree of the ITL
- (ix) Excess repayment of membership fee of mutual-aid association of a company as prescribed in Article 26 of the Presidential Decree of the ITL
- (x) Interest and discounts on non-commercial loans
- (xi) Income similar to items ① through ⑩ above, which is in the nature of compensation for the use of money

② Rules for determining domestic-source interest

In general, interest income is deemed to have a source in the payer's state of residence as indicated in the definition of domestic-source interest income under the domestic tax law above.

③ Tax-exempt interest

Under the Special Tax Treatment Control Law (STTCL), certain types of interest income of a nonresident (including a foreign corporation) are exempted from withholding taxes.

- Interest paid by domestic residents or corporations in return for using foreign loans provided by International Financial Institutions or Foreign Governments under subparagraph 6 of Article 2 of the Law on Public Loan Financing and Management
- Interest and commission, received by a nonresident or foreign corporation, on foreign currency bonds issued by the state, a local authority or any domestic corporation
- Interest and commission payable on foreign currency liabilities borrowed from a foreign financial institution and repayable in foreign currency by any financial institution authorized to do foreign exchange business under the Foreign Exchange Control Law (FECL)
- Interest and commission on Certificates of Deposit in foreign currency from nonresidents, and on notes issued or sold in foreign countries by any financial institution authorized to do foreign exchange business under the FECL

(2) Taxation Principles Adopted by Korean Tax Treaties

① Scope of interest income

In most of tax treaties which Korea has concluded, interest income is broadly defined as “income from debt-claims of every kind” and “income defined as interest income under domestic tax laws of the state in which the income is incurred.” This shows little difference from the definition of interest income under domestic tax law. However, no definition of interest income is provided in the tax treaty with Thailand and, thus, the definition under domestic tax laws applies.

② Rules for determining domestic-source

All tax treaties which Korea has concluded stipulate that interest is deemed to

have sources within a state of which the interest payer is a resident. However, it is also laid down that the person paying the interest has in a state a PE in connection with which the indebtedness on which the interest is paid was incurred, and such interest is borne by such a PE, then such interest shall be deemed to arise in the state where the PE is situated.

Some of tax treaties that Korea has concluded provide that some interest received by the government or quasi-governments of the other state shall be exempted from tax in a state in which such income is incurred. The scope of quasi-governments generally covers local authorities, the central bank, financial institutions the capital of which is owned by the government and the central bank. Some tax treaties have the provision which prescribes that interest on loans guaranteed or granted by an export-import bank is tax-exempt.

③ Interest paid in connection with the sale on credit, etc.

According to the tax treaties which Korea has concluded with the Philippines, France, Austria, Bangladesh, Belarus, Germany, Malta, Morocco, Slovak, etc., interest paid in connection with the sale on credit of any industrial, commercial or scientific equipment and merchandise is included in the scope of interest income (Under the domestic tax law, such interest is classified as business income). In the case of the treaty between Korea and Egypt, interest paid in connection with debt-claims secured by immovable property is regarded as income from immovable property (Under the domestic tax law, such interest is treated as interest income). In general, income classification under a tax treaty takes precedence over that under a domestic tax law.

④ Reduced tax rates

Under tax treaty, interest income derived by nonresidents may be taxed in a state in which the income is incurred in accordance with relevant domestic tax law of

that state. Where the interest is received by a beneficial owner thereof, however, the tax rate shall not exceed a reduced rate provided for under tax treaties which generally range from 10% to 15%. Under treaties with Hungary, Ireland and Russia, however, interest which arises in one contracting state and is received and beneficially owned by a resident by the other contracting state shall be taxable only in that other state.

⑤ Arm's length principle for controlled transactions

Where by reason of a special relationship between the payer and the beneficial owner of interest or between both of them and some other person, the amount of the interest exceeds the amount which would have been agreed upon by the payer and the beneficial owner in the absence of such relationship, the provisions of the Article regarding the application of a reduced tax rate apply only to the last-mentioned amount and the excess part of the payment remain taxable according to the laws of each state.

b. Taxation on Dividend Income

(1) Taxation Rules Provided by Domestic Tax Laws

① Domestic-source dividend income

Under the domestic tax law, domestic-source dividend income of a nonresident (including a foreign company) means the following items of income received by the nonresident from domestic corporations or non-corporate entities in Korea:

- (i) Dividends of profits or distribution of surplus from a domestic corporation, and interest received during the construction period from a domestic corporation under Article 463 of the Korean Commercial Law
- (ii) Dividends or distribution of surplus from a non-corporate entities

(iii) Deemed dividends as enumerated below:

Classification	Tax base
Reduction in paid-in capital	The value of property received as a consequence of capital reduction minus the acquisition cost of the shares of the corporation
Bonus issue of shares in case of the transfer of surplus of a corporation into its paid-in capital	Number of bonus shares multiplied by its face value
Distributions after the liquidation	The value of property received after the liquidation minus the acquisition cost of the shares of the dissolved corporation
Distributions on the merge of corporations	The value of property received on the merge minus the acquisition cost of the shares of the ceased corporation
Distributions on a corporate division	The value of property received on a corporate division minus the acquisition price of the share before division
Distribution of treasury stocks in case of the transfer of the capital reserve or asset revaluation reserve	Number of shares multiplied by its face value

(iv) Distributions of profits from domestic dividend-yielding investment trust

(v) Income similar to items ① through ④, having the nature of distribution of profits

② Tax-exempt dividends in relation to qualified FDI

Where dividends are received by foreign investors from a foreign-invested company carrying on businesses eligible for relevant tax incentives, tax exemption is allowed. To benefit from tax incentives of this category, business concerned has to be foreign investment under the Foreign Investment Promotion Law and be one of the following businesses as prescribed in Article 116-2 of the Presidential Decree of the STTCL:

- (i) Industry supporting service business and advanced technology business which are essential for reinforcement of international competitiveness of domestic industry;

- (ii) Business carried on by a foreign-invested company which moves into the Foreign Investment Zone under Article 18 of the Foreign Investment Promotion Law;
- (iii) Business carried on by a foreign-invested company which moves into the Free Economic Zone under subparagraph 1 of Article 2 of the Law on Designation and Operation of the Free Economic Zone;
- (iv) Business carried on by a foreign-invested company carrying out development project within the Free Economic Zone under paragraph 1 of Article 9 of the Law on Designation and Operation of Free Economic Zone;
- (v) Business carried on by a foreign-invested company carrying out development project in the Investment Promotion District in Jeju Island designated under Article 42 of the Special Law on Free International City of Jeju Island;
- (vi) Other business for which tax incentives are badly needed in order to attract foreign investment.

(2) Taxation Principles Adopted by Korean Tax Treaties

① Scope of dividend income

Under tax treaties Korea has concluded, dividends mean “income derived from shares or other rights, not being debt-claims, participating in profits” and “income from other corporate rights which is subjected to the same taxation treatment as income from shares by the laws of the state of which the company making the distribution is a resident.” This is similar to dividend income under Korean domestic tax law.

② Application of a reduced tax rate

Dividends received by a nonresident (including a foreign company) from a domestic corporation may be taxed in Korea where such income is derived. However,

the tax rate higher than a certain rate (reduced tax rate under tax treaty) shall not apply. Reduced tax rates vary depending on tax treaties, but generally range from 5 to 15%. In many cases, different reduced tax rates apply depending on whether the recipient is an individual or a corporate body.

c. Taxation on Royalty Income

(1) Taxation Rules Provided by Domestic Tax Laws

① Domestic-source royalty income

Domestic-source royalties received by a nonresident (including a foreign company) under the Korean tax law mean consideration paid in Korea or accrued for the use of or right to use in Korea the following properties or information, and gains realized from the transfer of such properties or information regardless of whether such properties and rights are registered on an official list or not.

- (i) Copyright of academic or artistic work (including cinematograph films), patent, trademark, design or model, plan, secret formula or process, films and tapes for radio and TV broadcasting or other similar assets or rights
- (ii) Information or know-how concerning industrial, commercial or scientific knowledge or experience

Basically, Korean tax laws treat royalties having a Korean source when they are derived from the right to use properties or information within Korea or when such royalties are paid in Korea. However, where a tax treaty specifies that royalties are treated as having a source of a state only when they are derived from the right to use properties or information within that state, any consideration paid for the use of properties or information abroad shall not be deemed as having a Korean source:

② Rules for determining domestic-source

For royalties to be treated as having a Korean source under the Korean tax law, properties, information and rights in relation to which royalties are paid have to be used within Korea or such royalties have to be paid in Korea. Previously, only those royalties paid for the use of properties within Korea were deemed as having a Korean source. However, since the amendment of the relevant tax law in 1988, payments made within Korea have been regarded as domestic-source income even if properties concerned are used abroad, unless tax treaties specify the income concerned should be deemed to have a source in the place where properties concerned are used.

③ Consideration for know-how to be used in overseas branch of a domestic corporation

Where a domestic corporation pays consideration for the use of properties, rights or information from a foreign corporation without a place of business in Korea and then use them through an overseas branch or construction site located in a third state, consideration for such use is treated as royalties having a domestic source.

④ Taxation on imported software

Even when customs duties are imposed on consideration for the introduction of technical information or software which is imported in the form of plan, tape or disk, such consideration is treated as royalties regardless of the imposition of customs duties if consideration for such technical information or software falls on the scope of royalties under domestic tax laws.

⑤ Tax-exempt royalty income

Where technology imported in accordance with the Foreign Investment

Promotion Law comes under the category of advanced technology essential for strengthening of international competitiveness of domestic industry and meets certain requirements specified in Article 121-6 of the STTCL, consideration concerned is eligible for tax exemption or reduction for five years.

(2) Taxation Principles Adopted by Korean Tax Treaties

① Scope of royalty income

Scope of royalty income may somewhat differ depending on tax treaties, but all of them define royalties as payments of every kind as specified in the following:

(i) Consideration for the use of or the right to use of copyright of scientific, artistic or academic work, patent, trademark, design, model, plan, secret formula or process

- Under tax treaties Korea has concluded with Japan, US, Thailand, Canada, Singapore, Germany and Mexico, even gains from the transfer of the aforementioned assets are deemed to be royalties.

(ii) Consideration for the use of or the right to use industrial, commercial or academic equipment

- Under tax treaties Korea has concluded with US, Thailand, Bangladesh, Egypt, South Africa, New Zealand, Russia, and Fiji, consideration of this category is not deemed as royalties.
- Consideration for the use of or the right to use of ships or aircraft on a bareboat charter is deemed as income from the rental thereof, unless there is a separate provision on it in tax treaty as in the Korea-Netherlands Tax Treaty.
- Under treaties with Japan, Canada, Germany and Mexico, provisions on royalties may also apply to income from the transfer of the equipment of this category.

(iii) Consideration for information concerning industrial, commercial or academic experience

- Under tax treaty between Korea and Egypt, consideration in this category is not prescribed as royalty income.
- Under tax treaty between Korea and the Netherlands, payments received as consideration for scientific, geological or technological study or research are not deemed as consideration for information concerning industrial, commercial or scientific experience.
- Under treaty with France, payments received as consideration for scientific, geological or technological study or research and for service concerning certain engineering, or consulting or supervision service are not deemed as consideration in this category.

(iv) Consideration for technical services

- Under tax treaties Korea has concluded with Brazil, India, Pakistan, Bulgaria and Tunisia, consideration for technological, management or consulting services is defined as royalties.

② Rules for determining domestic-source

As in the case of interest income, royalties may be treated as having a source either in a state in which consideration concerned is paid or a state in which properties or information concerned is used. While most tax treaties Korea has concluded stipulate that royalties are deemed to have a source in the payer's state of residence, a state in which properties concerned are used is regarded as a state of source under treaties with US and Thailand. However, even under such treaties adopting the place of payment principle, where the obligation to pay such royalties is created in connection with a PE in Korea of a nonresident or a foreign company and the royalties are borne by such PE, the royalties are deemed to have a source in Korea regardless of the state of residence of the payer.

③ Gains from the transfer of patent, etc.

Royalties include not only income from the rental of properties or rights defined above but also gains from the transfer thereof, under the Korean tax law, while the latter is excluded from the scope of royalties under most of tax treaties Korea has concluded. If gains from such transfer do not fall under the scope of royalties under tax treaties, such gains shall be treated as business income (in case that such income is derived by a PE), capital gains or other income, as the case may be.

④ Application of reduced tax rates

Royalties may be taxed in the state of source, but where the recipient of royalties is its beneficial owner, the tax rate shall not exceed a certain level (i.e., reduced tax rate under applicable tax treaty, generally ranging from 10% to 15%). However, under treaties with Hungary, Ireland and Malta, royalties shall be taxable only in the recipient's state of residence.

3. Taxation on Income Arising from the Provision of Professional Services

a. Taxation Rules Provided by Domestic Tax Laws

(1) Domestic-source income from professional services

Under the Korean tax law, domestic-source income derived by non-resident individuals or foreign companies from the provision of personal services means income derived by non-resident individuals or foreign companies from the rendering of professional services in Korea by themselves or through their employees. In other words, it is compensation for professional services provided by a person of an independent status or for other activities of an independent nature, as opposed to

earned income which means compensation for services provided by a person as employee of other person. Professional personal services include the following:

- ① Services provided by actors, musicians or other entertainers
- ② Services provided by professional athletes
- ③ Services provided by professionals such as lawyers, certified public accountants, architects, surveyors registered and patent lawyers
- ④ Services provided by those with expertise in specific area such as science & technology and business management by utilizing such expertise

In the past, even when such personal services as described above are rendered abroad and only the result of such services is used in Korea, compensation for the use of such result in Korea was also treated as domestic-source income. With the revision of relevant tax law in 2003, however, compensation for the use in Korea of the result of personal services rendered abroad on or after January 1 2004 is not domestic-source income any longer.

*In the case of the rendering of professional services by a non-resident individual or a foreign company without a PE in Korea, airfare, accommodation fees or meal expenses used to be included in total amount from which 20% of withholding tax is deducted at source. However, since January 1, 2005, such fees are no longer counted in for withholding tax purpose as long as they are directly paid to the airline, hotel, or restaurant concerned by the withholding agent concerned are not counted in for withholding tax purpose. The non-resident who derives income from professional services may also elect to include such income from the provision of professional services subtracted by the afore-mentioned expenses in the global income when filing a tax return in Korea.

b. Taxation Principles Adopted by Korean Tax Treaties

(1) Types of professional services under tax treaty

In general, there are two types of professional personal services: independent personal services of an independent character and dependent personal services provided by a person as employee of other person. In tax treaties, however, income

from the provision of personal services is classified into more specific 8 categories and each category is dealt with separately: income derived from “independent personal services”; income derived from “dependent personal services”; “directors’ fees”; income derived by “artistes and sportsmen”; “pensions”; remuneration paid in respect of “services rendered to a government or other institutions of the similar nature”; payments received by “students or business apprentice” for the purpose of maintenance, education or training; and remuneration paid to “professors”.

Among the 8 categories, a company may be regarded as a qualified entity for income derived from independent personal services as well as for remunerations paid for the activities of artistes and sportsmen in some cases.

(2) Income in respect of independent personal services

Basically, income in respect of independent personal services refers to income paid for the rendering of services by a person of an independent status. Therefore, compensation for services provided by a doctor who is employed at a medical center of a factory is income from dependent personal services (labor income) rather than income from independent personal services.

Activities by artistes and sportsmen come under independent personal services as described above, but, in case where a tax treaty contains a separate article dealing with artistes and sportsmen, that article applies to such activities taking precedence over the article on independent personal services.

Independent personal services have similar nature to that of business profits in many aspects. Therefore, just as business profits derived by a non-resident without a PE in Korea are non-taxable in Korea, if the tax treaty concerned specifies that only those independent services delivered through a fixed base in Korea may be taxed in Korea, taxation principle applied to a PE with regard to business profits shall apply mutatis mutandis to independent services rendered through a fixed base. In other

words, independent personal services provided through a fixed base in Korea may be taxed in Korea but only so much of them as is attributable to the fixed base.

(3) Personal services provided by a foreign company under tax treaty

Income derived from the rendering of professional services by a foreign company in Korea under the Korean Corporation Tax Law is generally the same as independent personal services under tax treaty, but may be classified as business profits sometimes depending on treaties.

Given, under a tax treaty, business profits derived by a foreign company without a PE in Korea is not taxable in Korea while income from the provision of independent personal services is taxable in Korea unless certain conditions for exemption are met, tax consequences with regard to income derived by a foreign company in relation to personal services vary dramatically depending on whether the income concerned is classified as business profit or as income from independent personal services.

① Tax treaties specifying the income derived by a company from the provision of professional services as business profits

Under some tax treaties Korea has entered into (e.g. tax treaty with the US, Germany, Australia, Sri Lanka, Pakistan, Indonesia, India, Brazil, Russia and South Africa), only individuals are qualified for the articles on independent personal services and thus income derived by a company from a foreign country through the company's employee in Korea constitutes business profits and is not taxable in Korea unless the company has a PE in Korea. However, labor income derived in Korea by an employee of such company, if conditions of tax exemptions as prescribed in the applicable tax treaty are not met, is taxable in Korea as labor income.

② Tax treaties recognizing income from the provision of professional services by a company under the category of income from the independent personal service

Under most tax treaties Korea has entered into, the article governing independent personal services is applicable to both individuals and companies. Therefore, income derived by a company from a foreign country covered by such tax treaty through its employee in Korea is subject to the provisions of the treaty concerned on independent personal services. Therefore, such income is taxable in Korea unless conditions for exemptions specified in the provisions are met, even when the company has no PE in Korea.

4. Taxation on Capital Gains

a. Taxation Rules Provided by Domestic Tax Laws

(1) Domestic-source capital gains

① Scope of capital gains from the transfer of immovable property

Capital gains from the transfer of the following immovable property are regarded as having domestic source under the Korean tax laws:

(i) Land or buildings

Land means land categories required to be registered on the Cadastral Register under the Cadastral Law and buildings include facilities and structures accessory to the buildings concerned.

(ii) Rights to real estate such as surface rights and leaseholds to real estate registered and rights to acquire real estate (including rights to acquire a building and land accessory thereto when the construction of the building is completed)

(iii) “Other property” (particular type of shares, membership, goodwill etc.) as specified in subparagraph 4 of paragraph 1 of Article 94 of the Income Tax Law.

However, particular type of shares means shares or comparable interests in a corporation 50% or more of the total assets of which consist of the real estate. Capital gains derived by a nonresident (including a foreign company) will be treated as having a source in Korea only when the asset in respect of which such gains are incurred is situated within Korea.

② Scope of capital gains from the transfer of movable property

Domestic-source capital gains on shares include gains from the transfer by a nonresident (including a foreign company) of shares or comparable interests or other securities issued by a domestic corporation and shares or comparable interests issued by a foreign corporation (limited to those that are listed on stock exchange under the Securities Transaction Law or that are registered on the KOSDAQ Market) and other securities issued by a place of business (P.E.) in Korea of a foreign corporation except for gains from the transfer of securities which come under the category of other assets as defined as particular type of shares in subparagraph 4 of paragraph 1 of Article 94 of the ITL.

The scope of taxable gains from the transfer of securities by a nonresident under the Korean tax law is determined based on such factors as the existence of a PE within Korea, types of securities or transactions, etc. as follows:

- In the case of nonresidents or foreign corporations with a PE in Korea
 - (i) Gains from the transfer of shares or comparable interests are subject to tax.
 - (ii) Gains from the transfer of the securities other than shares or comparable interests (e.g. bonds, etc.) are subject to tax.

- In the case of nonresidents or foreign corporations without a PE in Korea

(i) Gains from the transfer of shares or comparable interests

- Gains from the sale through publicly recognized stock exchanges (e.g., the KOSDAQ Market) are taxable only in case where the holdings of the nonresident transferor together with such shares held by other related persons as may be aggregated therewith are less than 25% of the total shares issued by or total investment in a Korean company (the total shares or comparable interests *listed or registered on a publicly recognized stock exchange in Korea* in the case of shares or comparable interests issued by a foreign company) at any time in the year of such transfer and during the 5 years prior to the year.
- Gains from the sale through places other than publicly recognized stock exchanges are generally taxable. This rule applies even in case where the company, shares of which are transferred, is listed or registered on publicly recognized stock exchanges.

(ii) Gains from the transfer of securities (bonds etc.) other than shares or comparable interests

- Such gains are subject to tax where the transferee is a domestic corporation, a resident or a place of business of a nonresident or a foreign corporation
- Capital gains are non-taxable where the transferee is a nonresident or a foreign corporation having no place of business in Korea.

(2) Tax-exempt capital gains from securities specified in a tax law

Income tax and corporate tax exemptions are allowed for gains from the transfer in foreign countries by a nonresident or a foreign corporation of securities denominated in foreign currency or receivable abroad which are issued abroad by the state, local authorities or a domestic corporation based on the standards defined by the Minister of Finance and Economy as well as shares and comparable interests of a domestic corporation listed or registered on an overseas stock exchange which is similar to publicly recognized stock exchange under the Securities Transaction Law or

the KOSDAQ Market. Eligible securities for this regime include ordinary bonds (bonds of every kind such as corporate bond, financial bond, and public bond), convertible bond (CB), bond with warrant (BW), depository receipt (DR) and short/mid-term debt instrument issued based on agreement which guarantees revolving underwriting.

(3) Obligation to file a tax return for capital gains from transfer of securities

If capital gains on shares derived by a nonresident (including a foreign company) having a PE or immovable property in Korea are attributable to the PE or the immovable property, such gains should be aggregated to other domestic-source income for the purpose of filing of a tax return and tax payment. Also, a nonresident (including a foreign company) must file tax returns within 3 months if he transfers shares or comparable interests of *the same domestic corporation twice or more within the same taxable year* even though he has no PE in Korea or has a PE in Korea with no connection existing between the PE and the capital gains mentioned above. If he fails to file tax returns, underreport his tax base or pay due amount of taxes, he shall be subject to additional penalty charges.

(4) How to tax capital gains from transfer of securities

Capital gains on securities in other cases are subject to separate taxation through final withholding tax. When it comes to separate withholding tax, the lesser of an amount equivalent to 10% of the transfer price of securities (①) or the amount equivalent to 25% of the capital gains (transfer price – (acquisition value + expenses incurred in relation to the transfer) (②) will be withheld. However, if such acquisition value and expenses are unidentifiable, the amount in ① will apply.

Amount of gains from the transfer of securities by a foreign company having no PE in Korea is calculated by class of shares and by transaction and capital gains and

losses from each class or transaction cannot be set off against each other. However, where shares are acquired through the Korea Stock Exchange out of different accounts opened with different securities firms and shares acquired from each account are kept by respective securities firms, set-off of capital gains and losses by account is allowed.

b. Taxation Principles Adopted by Korean Tax Treaties

(1) Scope of capital gains on real estate, etc.

Under Korean tax treaties, the taxing right to capital gains may go to different states depending on types of properties transferred.

① Capital gains on real estates

In general, it is specified in tax treaty that capital gains on real estate may be taxed in a state in which the property transferred is situated.

② Capital gains on properties forming part of a PE

Gains from the transfer of movable properties forming part of business-purpose properties (including gains from the transfer of a PE) may be taxed in a state in which the PE is situated.

③ Capital gains on ships or aircraft operated in international traffic

Gains from the transfer of ships or aircraft operated in international traffic and movable properties incidental to such operation shall be taxable only in a state of which the enterprise is a resident.

④ Capital gains on securities

In many treaties, gains from the sale of shares (including comparable interests) are distinguished from other capital gains, whilst capital gains from the transfer of other securities are not particularly categorized and thus treated in the same manner as the gains from transfer of all other properties. Capital gains on shares are taxable only in the transferor's state of residence under most tax treaties. However, some of such treaties allow capital gains on shares to be taxable in a state where such gains are derived if certain conditions are met. Where the taxing right to capital gains on shares is assigned to the state of source or no provision for such gains is provided for under relevant tax treaties, they are taxable in the state of source in accordance with its domestic tax laws.

The following shows which state is entitled to tax capital gains on securities under various Korean tax treaties:

Taxing right	Treaty partner
Taxable only in the transferor's state of residence	Greece, South Africa, the Netherlands, Nepal, New Zealand, Denmark, Russia, Malaysia, etc.
Taxable only in the transferor's state of residence (However, gains from the alienation of shares of the capital stock of a company the property of which consists mainly of immovable property situated in a contracting state may be taxed in that state.)	Norway, Nepal, Germany, Mexico, Morocco, Malta, US, Turkey etc.
Taxable only in the transferor's state of residence. (However, if the transferor has held at least 25% of the total shares of the company during a certain period of time, capital gains concerned may be taxed in the where such gains are derived.)	Germany, Mexico, Myanmar (35%), Spain, Austria, Israel, Italy, etc.
Taxable in a state where capital gains are incurred in case the transferor, being a resident of the other contracting state, has been a resident of the first-mentioned state at any time during the five years immediately preceding the transfer.	Norway, the Netherlands, France, UK, Finland

Taxable in both contracting states -No relevant provisions provided for in tax treaty -Taxable in a state in which capital gains are derived under tax treaty	- <u>Luxemburg, Thailand</u> - Brazil, Singapore, Kazakhstan (excluding listed shares), Australia
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⑤ Capital gains from other properties

In most cases, capital gains from other properties are subject to tax in the residence state of the transferor under relevant tax treaties. However, if applicable tax treaties do not exist or tax treaties do not articulate residence state's taxing rights on this type of gains, such gains are subject to tax in the source state.

5. Taxation on Other Income

a. Domestic Tax Provisions for Determining Domestic-Source Other Income

Domestic-source income falling under the category of other income derived by a nonresident (including a foreign company) under the Korean tax law include income items as specified in the following, provided that such income does not fall under the category of other domestic-source income.

- (1) Insurance proceeds, compensation money or compensation for damages receivable in connection with real estate or other assets located in Korea, or in connection with a business operated in Korea
- (2) Damages or indemnity payments for breach or cancellation of a contract on property rights payable in Korea
- (3) Income incurred from properties received as gifts and held in Korea (However, in the case of nonresident individuals, such income is subject to the gift tax rather than the income tax)
- (4) Prize money, reward, and other similar income payable in Korea

- (5) Income from hidden property discovered in Korea
- (6) Income from the assignment within Korea of rights established by license, permission or other similar disposition under the Korean law, or from the transfer of property held within Korea at the time of transfer, other than real estate
- (7) Money or goods received as a prize from winning a lottery or drawing lot in Korea and proceeds from winning horse racing/ cycle racing/ motorboat racing/ bull fighting, sports betting game tickets issued in Korea (including money and goods from participation by nonresident individuals in activities involving the use of slot machine etc.)
- (8) Income from the unfair increase of values of shares or comparable interests of a domestic corporation owned by a nonresident as a result of non arm's length capital transactions between related parties
- (9) Income other than those described above, arising from a business operated in Korea, or economic benefits received in connection with assets located in Korea or other similar income

b. Tax Treaties' Provisions Determining Taxing Rights on Other Income

Other income or income not expressly mentioned under tax treaty means income not dealt with in any article of the tax treaty concerned, which means that the scope of such income may differ depending on tax treaties. Other income under tax treaty includes not only income items not expressly mentioned in the treaty concerned but also income of sources not expressly referred to therein. In this respect, the definition of other income under tax treaty is different from that under the Korean tax law. In other words, other income under tax treaty encompasses all income which is not expressly mentioned in the treaty concerned, while other income under the domestic tax law means only income specified as such therein.

There may be three cases with regard to taxation on other income under tax treaties as in the following:

- Where such income shall be taxable only in the recipient's state of residence
- Where such income may be taxable both in the recipient's state of residence and the state of source
- Where a tax treaty provides no provision on other income (in this case, the income concerned may be taxable both in the recipient's state of residence and the state of source)

Type	Applicable tax treaty
Taxable only in the recipient's state of residence	Greece, South Africa, Norway, Nepal, Germany, Russia, Japan, etc.
Taxable both in the recipient's state of residence and in the state of source	New Zealand, Malaysia, Mexico, Bangladesh, Belgium, Brazil, Egypt, etc.
No provision on other income provided for in tax treaty	The Netherlands, Denmark, Singapore,

c. How to Tax Other Income

In case the right or asset in respect of which other income is paid is effectively connected with a PE in one contracting state of a resident of the other Contracting state, such income is treated as business income and taxed accordingly.

Generally, Korean tax treaties do not have a provision for "reduced tax rates" for the Article of "Other Income." It means that an amount equivalent to 25% (the tax rate stipulated in domestic tax laws) of "other income having domestic source (i.e., total amount paid in Korea and classified as other income under domestic tax laws and relevant tax treaties)" of a nonresident or a foreign company having no PE in Korea needs to be withheld at source.

6. Procedural Rules for Anti-Treaty Shopping

a. General Procedures for Claiming Tax Exemption Provided in Relevant Tax Treaties

A nonresident (including a foreign company) who wishes to benefit from non-taxation or exemptions under tax treaty in relation to domestic-source income (excluding business profits and income from the provision of personal services) should claim it by submitting an application form for non-taxation/exemptions to the payer of the income concerned. *A certificate of residence issued by the competent authorities of the nonresident's state of residence should be attached to such application form for non-taxation/ exemptions.* Then, the payer of the income has to submit such form to the tax office having jurisdictions over his place of tax payment by the ninth day of the month following that in which the payer makes the first payment of income.

Even in case of changes in details of the application after the initial application for some reasons such as modification of contract terms, the nonresident has to make an application in the same manner as before. However, where the payer of the income does not have a residence, abode, head or main office or place of business in Korea, the nonresident recipient may directly submit such application form to the relevant tax office.

Generally, application mentioned above can be made through an agent of the nonresident. Where a financial institution underwrites, trades bonds of a nonresident or a foreign company, or acts as a brokerage or an agent in relation to such bonds, agency relations are deemed to exist between such financial institution, securities firm, or corporation and the nonresident.

With regard to the domestic-source income concerned which is not subject to the corporate income tax or is tax-exempt under domestic tax laws, an application form for non-taxation/ exemptions does not need to be submitted.

b. Special Procedures of Withholding Tax with regard to Passive Income Paid to Residents in Tax Shelters

Recently, Korea has encountered a number of cases where tax treaties which Korea has concluded with countries having preferential tax regimes or jurisdictions were abused for treaty shopping purposes. Actually, a few of Korea's tax treaty partners offer no or nominal tax burden to foreign investment funds and thus they are suspected to provide treaty shopping opportunities to investors residing in a third country to which a relevant Korean treaty cannot apply.

Although the number of such regions may not be high, they are believed to deal a severe blow to effective operation of Korea's international tax system as a whole. Recognizing the seriousness of the issue, the Korean government has recently introduced a new procedure for withholding tax to cover countries or areas that are deemed to be tax shelters so that chances of treaty shopping attempts can be significantly reduced.

The gist of the new rule is that income from investment in Korea derived by a nonresident or a foreign company located in some specific countries or jurisdictions designated by the Minister of Finance and Economy should be first withheld by a withholding agency according to tax rates provided in domestic tax laws. If the nonresident or the foreign company is able to substantiate to the relevant tax office within 3 years that it qualifies for the treaty benefits as the beneficial owner of the income concerned, any difference between the amount withheld at the domestic tax rate and one based on the applicable treaty should be refunded within 6 months. In case the taxpayer concerned wishes to apply a reduced rate or tax exemption under tax treaties from the beginning, he or she should request the Commissioner of the National Tax Service (NTS) to give an advance approval according to the procedure provided in the relevant enforcement decrees.

Since it may require huge compliance and administrative costs to determine whether or not the applicant is the beneficial owner of the income received, the enforcement decree of the Corporation Tax Law provides some safe harbor rules by which the recipient of the income may be regarded as the beneficial owner of the income concerned even without further substantiation of relevant facts. The following is a set of examples of entities that can be treated as such if they claim to be one under the decree.

- (1) a qualified governmental entity;
- (2) a company the shares of which are listed on a recognized stock exchange in the state of the applicable tax treaty and regularly traded thereon;
- (3) a company, at least 50% of the aggregate vote of the shares of which is owned directly or indirectly by individuals, qualified governmental entities, and a company described in ii);
- (4) a pension trust or any other similar organization in case where at least 50% of beneficiaries are resident individuals in the state of the applicable treaty;
- (5) a qualified mutual fund having not less than 100 investors;
- (6) an entity bearing an amount equivalent to at least 50% of the tax benefit amount in Korea resulting from the application of the relevant tax treaties (i.e. tax amount calculated at rate under the domestic tax law minus tax amount calculated at rate under the applicable tax treaty).

For the purpose of securing enough time for all preparatory work necessary for the smooth implementation of the new procedures of withholding tax, the new system is scheduled to come into effect on July 1, 2006. The list of countries or regions to be covered by this new rule will be announced by the Korean government before the effective date of this rule.

*See Appendix I for a summary of income taxation for non-residents.

7. Tax Treaties

As of the end of June 2008, Korea has entered into bilateral tax treaties (Conventions for the avoidance of double taxation and the prevention of fiscal evasion with respect to taxes on income) with 70 countries all over the world.

In addition to the primary objective of avoiding international juridical double taxation, tax treaties serve purposes such as promoting exchanges of advanced technology and capital from abroad as well as encouraging business expansion of domestic companies in foreign countries.

Chapter XVII. The Law for the Coordination of International Tax Affairs

1. Transfer Pricing Regime

a. Adjustment of a Transfer Price Based on an Arm's Length Price

The LCITA (Law for the Coordination of International Tax Affairs) authorizes the tax authorities to adjust the transfer price based on an arm's length price (ALP) and to determine or recalculate a resident's taxable income when the transfer price of a Korean company and its foreign counterpart is either below or above an arm's length price.

(1) Special Relationship

The LCITA and its Decree recognize "special relationship" under the following circumstances:

(Equity Ownership Test)

- where a foreign company directly or indirectly owns 50% or more of the voting shares of a Korean company; or
- where a Korean company directly or indirectly owns 50% or more of the voting shares of a foreign company; or
- if a corporation (or an individual), which directly or indirectly owns 50% or more of the voting shares of a foreign company, directly or indirectly holds 50% or more of the voting shares of a Korean company; or

(Substantial Control Test)

- if one transaction party ("Company A") substantially controls the business policy of the other transaction party ("Company B") or vice versa and at the same time they share the same interest; or
- if the same third party substantially controls the business policy of both Company A and Company B and at the same time both transaction parties share the same interest.

(2) Computation of Indirect Ownership

If company A owns a 50% stake or more in company B, and B owns a certain percentage of shares in a third company C, B's equity ratio in C would constitute the ratio of equity which A indirectly owns in C.

If company A owns less than a 50% stake of company B, and B owns a certain percentage of shares in a third company C, then A is considered to own C to the extent of the ratio computed by multiplying A's equity ratio in B by B's equity ratio in C.

b. Criteria and Procedure for Transfer Price Adjustment

The LCITA and its Decree define an arm's length price (ALP) as a price that is established or that can be expected to be established in a normal transaction between independent enterprises without a "special relationship."

The LCITA lists the following methods for determining an ALP: the comparable uncontrolled price (CUP) method, the resale price method, and the cost-plus method. Furthermore, the Decree elaborates upon the profit-split method, the transactional net margin method (TNMM) and the Berry Ratio method as methods for determining an ALP based on profits arising from controlled transactions.

The CUP method evaluates an ALP by comparing the price that an independent uncontrolled person under the same or similar circumstances in terms of trade conditions or volume would set for goods identical to those in question.

The resale price method may be applied where a manufacturer sells its products to a related person and the related person resells the same product to an unrelated third party without any further processing. Under this method, the adjustment in the transfer price between related parties may be computed by subtracting an appropriate mark-up amount from the price that the related reseller charges the product to unrelated third parties.

The cost plus method, in principle, may be applied where a manufacturer sells his or her products to the related party and the related party then adds value to the product by processing it further to sell to unrelated third parties. In such cases, the ALP is calculated as the price of the refined goods, less the actual costs of further processing, together with an appropriate mark-up upon such costs.

The profit split method determines an ALP by taking the sum of profits earned by the related parties and allocating them in proportion to the respective contribution towards generating the profits realized.

The TNMM evaluates an ALP by first seeking an independent third company which is similar to the company at issue in terms of its business operations and the nature of its business, and then by subjecting such a company to functional and comparability analyses. The income earned by the third company is then estimated based upon the following ratios: profits to assets, operating profits to turnovers, and profits to equity. These estimates will then be used to evaluate and if necessary, adjust the income and profit of the related parties.

Finally, with the Berry Ratio method, an ALP in a transaction between a Korean company and its foreign related party is established by using the ratio of gross profit to operating expense (GP/OE) in a comparable (the same or similar) transaction between the Korean company and an unrelated party.

c. Selection of Method for Determining ALP

The Decree states that an ALP should be determined by the most reasonable method applicable to the situation, whether it be the CUP method, the resale price method, the cost plus method, or any other method.

The Decree sets out the following criteria for selecting the most reasonable method.

- The level of comparability between the transactions of related parties and those of independent parties must be high.
- Sufficient data on a comparable independent party must exist.
- The economic assumptions made in comparing the related parties' transactions with those of independent parties must reflect the actual economic situation of the parties.

The degree of comparability can be evaluated on the following factors:

- functions performed and risks assumed, as reflected in conditions and transactions;
- types as well as characteristics of the goods or services involved; and
- economic environment of the market and the degree of change in market conditions.

If the inter-company price established by a Korean company and its foreign related party differs from an ALP, the Korean company shall pay the corporate income tax based upon the income it would have reported under an ALP.

If there is a transaction between unrelated parties identical or similar to the transactions between the related parties at issue, the CUP method will be selected over any other method.

Among the methods of determining an ALP, traditional transaction methods (i.e., the CUP method, the resale price method, and the cost-plus method) have priority over transactional profit methods such as the profit split method, the transactional net margin method, or the Berry Ratio method which are intended to be used only if the traditional methods are inapplicable. In particular, the Berry Ratio method may be applicable in case where the Korean company carries out simple sales activities or renders service without carrying any burden of inventory.

If an international transaction made between unrelated parties cannot be treated as an arm's-length transaction because of the possibility of price manipulation, such transaction may not be used as a comparable one.

The tax authorities may use an arm's length range determined by two or more uncontrolled transactions to adjust the taxable income of taxpayers. Such tax adjustment must be made based upon reasonable values computed from the transactions examined.

d. Reporting Methods for an ALP Determination

The method used and the reason for adopting that particular one for an ALP determination must be disclosed to the tax authorities by a taxpayer in a report submitted along with his annual tax return. This is not the case, however, if the total value of international transactions of goods and that of international transactions of services of the taxpayer for the taxable year concerned is 5 billion won or less and 500 million won or less, respectively.

If the inter-company price used by a Korean company and its foreign counterpart differs from the transfer price determined under the proper method for determining an ALP, then the taxpayer must adjust such inter-company price.

e. Advance Pricing Arrangement (APA) System

If a taxpayer wishes to obtain an APA for transactions with its foreign related parties, then he or she should submit an application for an APA to the National Tax Service (NTS) by the end of the first fiscal year concerned (Unilateral APA).

Once the NTS approves the application of a certain method for determining an ALP, both the NTS and the taxpayer are bound by the method agreed upon in the APA. The roll-back of a unilateral APA to the prior 3 years is permitted (Unilateral APAs had previously applied on a progressive basis only).

An applicant for an APA may withdraw his application for an APA or change the particulars of such an application.

Any data submitted with the application for an APA will be used to only determine whether or not to grant an APA. If an application for an APA is refused or withdrawn, such data will be returned to the applicant in order to safeguard the confidentiality right of the taxpayer.

In case where an APA is obtained, a taxpayer is required to file an annual report which shows the inter-company price which was determined by the method agreed upon under the APA within six months of the annual tax return submission due date.

A taxpayer who applies for an APA may request that the NTS invoke a Mutual Agreement Procedure (MAP) with the competent authorities of the country in which its related foreign party is a resident under the relevant tax treaty (Bilateral APA). However, the NTS may grant an APA without undergoing a MAP for the taxpayer's convenience.

Having obtained an APA, a taxpayer may file an amended tax return that reflects the change from its prior inter-company price with a related party and the price determined under the APA.

f. Secondary Adjustment

If the tax authorities adjust the transfer price between a Korean company and its foreign related party based upon an ALP or they increase the taxable income of the Korean company, and if the foreign party has not returned an amount equal to the additional taxable income to the Korean company, the tax authorities will give the foreign related party the 90-day period during which it may return to the Korean company the amount plus interest accrued up to the point of the return. If the foreign related party fails to do so within the period, the amount equivalent to the additional taxable income will be mostly treated as dividends even if the foreign party is a related company of the Korean company other than a shareholder thereof.

g. Corresponding Adjustment

The LCITA and its Enforcement Decree state that if a foreign government, on the basis of an ALP, increases the taxable income of a foreign company which is an associated enterprise to its Korean counterpart, the Korean government will correspondingly reduce the taxable income of that Korean company if the two governments have agreed upon an ALP applicable to the case through a Mutual Agreement Procedure (MAP). In such a case, a taxpayer may apply for a downward adjustment in his taxable income by filing a notification of the MAP results with the tax authorities.

h. Adjustment with regard to a Cost Sharing Agreement (CSA)

International standards used to verify appropriateness of cost sharing between a resident and its foreign related party have been reflected in domestic tax law.

Under the new provision, in case where a resident agrees to develop intangible property jointly with its foreign related party and to share costs/expenses incurred in relation to such development with the foreign related party, the tax base of the resident

may be adjusted based on ALP (The shared costs based on the ALP are tax deductible).

i. Sanctions imposed for Failure to Comply with the Data Request

Under the LCITA, the tax authorities are empowered to request from a taxpayer the data required for an adjustment of the inter-company price. If a taxpayer fails to submit the requested data within 60 days without any justification, the tax authorities may grant an extension of 60 days. The taxpayer may appeal within 30 days of the penalty imposition date.

The tax authorities may request the following data from a taxpayer:

- a copy of the sales contract between the Korean company and its foreign counterpart;
- a price list of the products at issue;
- a schedule of the manufacturing cost of the products;
- an organizational chart of the company with a description of the functions of each department;
- the inter-company price policy; and
- the equity relationship of the group.

2. Thin Capitalization Rules

a. Outline of Thin Capitalization Rule

A multinational enterprise (MNE) may adopt a tax avoidance mechanism under which the contribution of paid-in capital to its subsidiary in Korea is decreased, while increasing its loans to the subsidiary as much as possible. This may result in the minimization of the taxable income of the subsidiary through the increase in interest expense deduction of the subsidiary. Under such an arrangement, non-deductible dividend payments are replaced with deductible interest payments.

To cope with such an arrangement, the LCITA and its enforcement decree contain thin capitalization rules; whereby if a Korean company borrows from its controlling shareholders overseas (CSO), an amount greater than three times its equity (six times in the case of financial institutions) interest payable on the excess portion of the borrowing, computed as shown below, are recharacterized as dividends to which the article on dividends in tax treaty applies and therefore are treated as non-deductible in computing taxable income.

For purposes of the thin capitalization rules, money borrowed from a CSO includes amounts borrowed from an unrelated third party based upon the CSO's guarantee.

The following is the formula for computing non-deductible interest:

$$\text{Non-deductible interest} = \frac{\text{Interest and discount payable to CSO}}{B/A}$$

A : Debt borrowed from the CSO or guaranteed by the CSO;

B : A - [Paid-in capital contributed by the CSO X 3 (or 6 in the case of a financial institution)].

b. Debt under an Arm's Length Situation

Although the ratio of debt owed to a CSO to equity exceeds 3:1, as long as the conditions and the amount of debt owed to a CSO are reasonable compared to the debt from an independent third party, such debt from the CSO will be excluded from the scope of the debt subject to thin capitalization rules. As a result, interest on such debt will be deductible.

Anti-thin capitalization that originated from the arm's length principle is adopted from Article 9(1) of the OECD Model Tax Convention. Thus, if given requirements are satisfied, the debt-equity ratio prevailing in the industry (rather than a 3:1 or 6:1 ratio) will be applied.

3. Anti-Tax Haven Rules

a. Outline of Anti-Tax Haven Rules

Under the LCITA and its Enforcement Decree, if a Korean company (individual) invests in a company located in a tax haven, which unreasonably has reserved profits in the controlled foreign company, the profits reserved therein shall be treated as dividends paid out to that Korean company (individual), despite the fact that the reserved profits are not actually distributed.

In case where the sum of shares in a controlled foreign company directly or indirectly held by a Korean resident individual or company and directly held by his/her/its family members as defined in the Civil Law combined accounts for 20% or more of the voting shares in the foreign company, such Korean resident individual or company is subject to anti-tax haven rules.

Anti-tax haven rules are intended to regulate a company that has made overseas investments of an abnormal nature. Thus, these anti-tax haven rules apply to those Korean companies that have invested in a company incorporated in a foreign

country with an average effective tax rate of 15% or less on taxable income for the past three years (previously it was one year).

However, if a company incorporated in such a tax haven country actively engages in business operations through an office, shop, or a factory, then anti-tax haven rules will not apply.

b. Scope of Actually Accrued Income

If an average effective tax rate imposed for the past three years by a foreign country is 15% or less of the actually accrued income of a company incorporated therein, the country will be classified as a tax haven. Even if this criterion is met, however, anti-tax haven rules do not apply in the case of a company whose actually accrued annual income is 100 million won or less.

The term "actually accrued income" refers to the net income before tax calculated based on the generally accepted accounting principle (GAAP) of the host country. If the host country's GAAP is significantly different from that of Korea, the actually accrued income will be computed pursuant to the Korean GAAP.

c. Scope of a Tax Haven

According to the LCITA and its Decree, a country that meets any of the following conditions is regarded as a tax haven.

- A country or an area whose average effective tax for the past three years is 15% or less of actually accrued income (i.e., net income before corporate income tax computed based on GAAP) of a company incorporated therein
- A country or an area which the Commissioner of the National Tax Service designates with the approval of the Minister of Finance and Economy after factoring into those countries or areas designated as tax haven by the OECD or its member countries on the ground that they impose no or little taxes on a company's actually accrued income.

For this purpose, if the company has paid foreign taxes, such foreign taxes will be deemed to have been paid to the resident state.

$$\text{Effective tax rate} = (\text{Tax paid to resident country} + \text{Foreign taxes paid}) / \text{Net income before corporate income tax.}$$

d. Computation of the Reserved Income to be Distributed

The reserved income that can be distributed is computed by subtracting the items ① through ⑦ and adding the item ⑧ listed below from the adjusted amount of earned-surplus. The earned-surplus is represented on the income statements prepared in accordance with the GAAP of the resident state of the foreign company subject to the anti-tax haven system:

- ① distribution of earned-surplus resulting from an appropriation of retained earnings,
- ② bonuses, severance pay, and other types of outlays paid resulting from the appropriation of retained earnings,
- ③ reserves to be retained under the law of the resident state,
- ④ reserves remaining after the distribution of the earned-surplus for the year, which was subject to tax in the previous taxable years.
- ⑤ retained earnings which were derived in the taxable years for which the anti-tax haven rules are not applicable and which have not been appropriated (items ⑥ and ⑦ excluded)
- ⑥ unappropriated gain on valuation of securities or investment certificate
- ⑦ actually accrued income of the foreign company for the year concerned in case where the amount is 100 million won or less
- ⑧ loss on valuation of securities or investment certificate

If the resident state's GAAP is significantly different from the Korean GAAP, the earned-surplus shall be computed pursuant to the Korean GAAP.

4. Gift Tax on Property Located Outside Korea

Under the current Inheritance and Gift Tax Law (IGTL), a gift tax is imposed only if 1) the donee is domiciled in Korea or 2) the donated property is located in Korea. Accordingly, if a Korean individual donates a property located offshore to a donee domiciled offshore, a Korean gift tax cannot be levied. In this case, if the foreign country in which the donee is domiciled does not impose a gift tax, then double non-taxation will occur. Korea, which is now a member of the OECD, intends to adopt the "taxation of donor" principle of the OECD Model Double Taxation Convention on Estates and Inheritances and on Gifts.

Under the LCITA and its enforcement decree, if a person domiciled in Korea donates offshore property to a person who is domiciled in a foreign country where a donee is not subject to a gift tax, the donor will be subject to the Korean gift tax.

5. Mutual Agreement Procedure (MAP)

If a Korean resident individual, a domestic company, a nonresident individual or a foreign company with PE in Korea requests that his/her/its case be resolved through consultation with the competent authorities under an applicable tax treaty, the Minister of Finance and Economy or the Commissioner of the National Tax Service shall invoke the mutual agreement procedures (MAP). The MAP will be invoked in the following cases:

- where it is necessary for Korea to consult with a foreign competent authorities with respect to the application and interpretation of the tax treaty;
- where a Korean resident is subject to taxation in a foreign country contrary to the tax treaty concerned; or
- where it becomes necessary for the competent authorities of the two countries to adjust the taxable income of a taxpayer.

Once the MAP is invoked, the taxpayer will be allowed to postpone the filing of an appeal until the MAP is completed. Furthermore, if the MAP is invoked under an applicable tax treaty, the collection of national and local taxes will be postponed on a reciprocal basis until the MAP is completed.

6. International Tax Cooperation

The LCITA and its enforcement decree accept the general principle that income classification under a Korean tax treaty takes priority over that of the domestic tax law.

Under the LCITA and its enforcement decree, the Korean tax authority may request the tax authority of a treaty partner to collect the Korean taxes, subject to any limitations provided for in the treaty. Similarly, if the treaty partner requests the Korean tax authority to cooperate in collecting its taxes from a Korean resident, the Korean tax authority may collect the treaty partner's tax in accordance with the procedure for the collection of national taxes provided in the National Tax Collection Law.

The Korean tax authority may exchange tax information with foreign countries with which Korea has entered into tax treaties, subject to the provisions and limitations of the tax treaties.

If necessary, the Korean tax authority is permitted to 1) simultaneously conduct a tax audit with foreign tax authorities concerned, under the convention for cooperation in tax administration with that foreign country or 2) dispatch Korean tax officials to the concerned foreign country to conduct a direct tax audit of the company in that country.

As of the end of June 2008, Korea has entered into bilateral tax treaties (Conventions for the avoidance of double taxation and the prevention of fiscal evasion with respect to taxes on income and capital) with 70 countries. In addition to the primary objective of avoiding international juridical double taxation, tax treaties serve purposes such as promoting the introduction of advanced technology and capital from abroad as well as encouraging business expansion of domestic companies in foreign countries.

For information on a list of countries that Korea has entered into tax treaties with, please refer to Appendix I.

Part 9: Local Taxes

Chapter XVIII: Local Taxes

1. Acquisition Tax

a. Taxpayer

Persons acquiring real estate, motor vehicles, heavy equipment, trees, boats, aircraft, golf memberships, condominium memberships, and health club memberships through purchase or inheritance

b. Tax Base

- (1) The declared price at the time of acquisition; if buildings are acquired in annual installments, the amount of an annual installment
- (2) Acquisition period
 - (a) Acquisition of buildings: when the notice of approval for use is given in case construction of the building is permitted or when the building is first used in case construction of the building is not permitted
 - (b) In the case of property acquired in annual installments: each payment date of the annual installments
 - (c) For vessels, boats, motor vehicles, heavy equipments and aircrafts: when they are delivered to the end-user or when the balance is paid.

c. Tax Rates

- (1) 2% of the value of the acquired property or the amount of an annual installment
- (2) In the case of acquiring a villa, golf course, high class dwelling house, luxury amusement place, or a luxury boat: 500% of the tax rate under Paragraph (1) (corresponding to 10% of the value of the article)
- (3) In the case where taxable articles for business purposes are acquired in specially-designated areas of restricted population growth; for

example, the Seoul metropolitan area (except when foreign investors build new plants or expand existing ones by using assets acquired by the end of 2003): 300% of the tax rate under Paragraph (1) (which corresponds to 6% of the value of the property)

d. Payment

- (1) The tax return should be voluntarily filed with the payment of tax due within 30 days from the date of acquisition.
- (2) Penalty tax: If a taxpayer fails to voluntarily file the tax return within 30 days from the date of acquisition, 20% of the tax amount payable is added as penalty tax. In case a taxpayer fails to pay the tax amount payable, the amount of penalty tax calculated by multiplying the number of delayed days by the penalty tax rate as determined by the Presidential Decree(3/10,000 per day) is added.
- (3) Where a taxpayer, who had acquired objects subject to acquisition tax but has failed to file a tax return and pay the tax due, disposes of those objects within two years from the date of the acquisition, 80% of the tax amount payable is added thereto.

e. Exemptions

Non-taxable acquisitions are as follows.

- (a) Acquisition by the state, local autonomous bodies, or foreign governments
- (b) Acquisition by non-profit organizations to furnish religious or educational services, etc.
- (c) Acquisition (as a kind of compensation by the government) due to expropriation of land or natural disasters
- (d) Acquisition for the relocation of factories to provincial areas
- (e) Acquisition of nominal ownership due to mergers or purchasing rights of certain assets
- (f) Acquisition of a passenger car for non-business use with the engine displacement of below 1,000cc
- (g) Acquisition of property division in the wake of divorce

2. Registration Tax

a. Taxpayer

Persons who register particulars concerning acquisition, creation, transfer, alteration, or lapse of property rights, or other titles in the official book are liable to registration tax.

b. Tax Base

The tax base for the registration tax on real estate, ships, aircraft, or motor vehicles is the value at the time of registration. The said tax base depends on the declaration of the person who registers or records in accordance with the pertinent regulations. However, in the case where the tax base is not reported, or the case where value at the time of acquisition is less than the “ Standard Value ” determined by the local government every year, the “ Standard Value ” at the time of the registration or the record is deemed to be the tax base. However, the actual acquisition value shall be the tax base in the following cases:

- (1) acquisition from the state, local autonomous bodies, and local autonomous body associations,
- (2) acquisition by importing from abroad,
- (3) value of acquisitions verified by books of corporations, judicial decisions, or a notarized deed, or
- (4) acquisition through a public sale.

c. Tax Rates

- (1) Registration of real estate.

	<u>Tax Base</u>	<u>Rate</u>
(a) Acquisition of proprietary rights by inheritance of Farmland	value	0.3%
Others	value	0.8%
(b) Acquisition of proprietary rights without compensation other than those described in (a)	value	1.5%
(c) Acquisition of proprietary rights other than those described in (a) and (b)		
Farmland	value	1%
Others	value	2%

(d) Preservation of proprietary rights	value	0.8%
(e) Acquisition of rights by partition of real estate	value	0.3%
(f) Creation or transfer of the lease of real estate rights other than proprietary rights	value	0.2%
(g) Other registration	per case	3,000 won

(2) Registration of Ships, Aircraft, and Vehicles

i) Ships

(a) Acquisition of ships by inheritance	value	0.5%
(b) Acquisition of proprietary right by gift, Devise, or without compensation	value	1%
(c) Preservation of proprietary right	value	0.02%
(d) Registration of a small ship	value	0.02%
(e) Other registration	per case	7,500 won

ii) Aircraft

(a) Aircraft with maximum take-off weight greater than 5,700 kg	value	0.01%
(b) Other registration	value	0.02%

iii) Automobiles for non-business use

(a) New registration and ownership transfer	value	5%
		<small>(0% in case of below 800cc automobile)</small>
(b) Creation of mortgage	value	0.2%
(c) Other registration	per case	7,500 won

iv) Buses, trucks, special cars, and cars with 3 wheels or less

(a) New registration and ownership transfer		
- Non business use	value	3%

(2% light automobile)

- Business use value 2%
- (b) Creation of a mortgage value 0.2%
- (c) Other registration per case 7,500 won

(2) Registration of machines for construction

- (a) New registration and ownership transfer value of machine 1%
- (b) Creation of mortgage value of bonds 0.2%
- (c) Other registration per case 5,000 won

(3) Registration of incorporation

- (a) Establishment of a profit corporation value of total shares 0.4%
- (b) Establishment of a non-profit corporation value of total shares 0.2%
- (c) Increase of capital equity or amount of value of total shares 0.1% paid-in capital for a profit corporation or increase of value of total assets for a non-profit corporation, by capitalizing its assets revaluation reserves

Note: In the case of (a), (b), and (c), if the calculated tax amount is less than 75,000 won, then the tax payable shall be 75,000 won.

- (d) Relocation of head or main office of corporation per case 75,000 won
- (e) Establishment of branch office per case 23,000 won
- (f) Other registration per case 23,000 won

Note: Registration tax rates for corporations located in specially-designated areas for the purpose of restricting population growth, e.g., the Seoul metropolitan area, shall be three times the rates given above.

(4) Registration of Intangible Assets			
i) Mining rights			
(a) Creation	per case	90,000 won	
(b) Change	per case	38,000 won	
		or	
		7,500 won	
(c) Transfer	per case	60,000 won	
		or	
		15,000 won	
(d) Others	per case	6,000 won	
ii) Fishing rights (transfer)			
	per case	23,000 won	
		or	
		3,000 won	
iii) Copyrights (transfer)			
	per case	23,000 won	
		or	
		3,000 won	
iv) Patent rights (transfer)			
	per case	9,000 won	
		or	
		6,000 won	
v) Trademarks			
(a) Creation	per case	3,800 won	
(b) Transfer	per case	9,000 won	
		or	
		6,000 won	
(5) Other registration			
(a) Acquisition of a mortgage of a mining amount of foundation or factory foundation credit	value	0.1 %	
(b) Registration of an estate in trust	value	1.0 %	

d. Payment

- (1) The taxpayer that will register should file a tax return with the payment of tax due by the date of registration. Where the object of

taxation is subject to be taxed after registration, the tax return should be filed with the payment of tax due within 30 days from the date of being subject to double taxation.

(2) Penalty tax

Where the taxpayer either fails to voluntarily file the tax return and pay the tax amount or has paid it in short, 20% of the tax amount payable is added.

e. Exemptions

(1) Non-taxable Registration

- (a) Registration by the government or local autonomous bodies
- (b) Registration by a foreign government mission stationed in Korea
- (c) Registration by a non-profit organization to furnish religious or educational services, etc.

(2) Special provisions for relocation of corporation into a provincial area

To avoid the crowding of corporations in the major cities the registration tax is exempted with respect to the relocation of corporations into a provincial area. On the other hand, the tax rate increases by three times the current rate on the registration of a corporation in the case of its establishment or relocation into a major city.

3. License Tax

a. Taxpayer

Persons who have obtained licenses enumerated in the table below under Article 124 of the Presidential Decree are annually liable to the License Tax for each kind of license.

b. Tax Base

- (1) The number of licenses obtained
- (2) Taxation period: on occasional basis or period prescribed by the regulations

c. Tax Rates

License Class	City with population of 500,000 or more	Other cities	Counties
1	45,000 won	30,000 won	18,000 won
2	36,000 won	22,500 won	12,000 won
3	27,000 won	15,000 won	8,000 won
4	18,000 won	10,000 won	6,000 won
5	12,000 won	5,000 won	3,000 won

d. Payment

License tax will be paid at the following times:

- (1) New license: upon issuance of the license
- (2) Renewal of license: within the payment period prescribed by the pertinent regulations

e. Exemptions

- (1) Licenses obtained by the state, provinces, cities, counties, or the associations of autonomous, local bodies
- (2) Licenses granted to religious, academic, charitable, or other similar businesses
- (3) New licenses with respect to the registration of mining or fishing rights, etc.

4. Inhabitant Tax

a. Taxpayer

- (1) Per capita : Individuals with their domiciles and corporations with their offices in a city or county (including individuals having an office or a place of business larger than a specific size, i.e., whose gross receipts are 48 million won or more in the immediately preceding calendar year)
- (2) Pro rata income : Individuals and corporations liable to the payment of income tax, corporation tax, or farmland tax

b. Tax Base

- (1) Per capita: number of inhabitants
- (2) Pro rata income: amount of income tax, corporation tax, or farmland tax
- (3) Taxation period: one year

c. Tax Rates

- (1) Per capita rate (Inhabitant tax assessed in an equal amount)
 - (a) Individuals: Local governments determine the taxable amount up to 10,000 won
 - (b) Corporations:

Category	Tax Amount
Corporations with capital over 10 billion won and employs more than 100 workers	500,000 won
Corporations with capital over 5 billion won and employs more than 100 workers	350,000 won
Corporations with capital over 5 billion won and employs less than 100 workers, or corporations with capital over 3 billion but less than 5 billion won, employing more than 100 workers	200,000 won
Corporations with capital over 3 billion won and employs less than 100 workers, or corporations with capital over 1 billion and less than 3 billion won with more than 100 employees	100,000 won
Others	50,000 won

- (2) Surtax income rates

Category	Tax Rate
Income tax surtax (inhabitant tax assessed on the basis of income tax)	10% of income tax
Corporation tax surtax (inhabitant tax assessed on the basis of corporation tax)	10% of corporation tax
Farmland tax surtax (inhabitant tax assessed on the basis of corporation tax)	10% of farmland tax

(3) Calculation method of pro rata income rates

Pro rata income rates are calculated by applying the respective tax rate to the total amount of income tax, corporation tax, and farmland tax assessed one year prior to the year of assessment. In this case, the portion for special collection and the amount of tax assessed will be deducted occasionally.

d. Tax Returns and Payment

(1) Per capita inhabitant tax

There is no obligation to file a tax return. The authorities holding the rights to impose tax shall serve notice and collect the tax during the period prescribed by the pertinent regulations.

(2) Pro rata income inhabitant tax

(a) In case where pro rata corporation tax or income tax is filed by the taxpayer or determined or adjusted by the government, the taxpayer shall return and pay the computed tax. This tax is apportioned to a mayor or a county chief who governs the payment place, by the city or county where each establishment is located, within the following periods.

(i) In case of filing the tax amount of corporations: within 4 months from the last date of the business year concerned

(ii) In case of determination or adjustment by the government: within one month from the date of determination or adjustment

(iii) In case of prescribed individuals' tax filing: within one month from the following dates

- Where the individual taxpayer submits an amended tax return: the date when the amended tax return was filed
- Where the individual taxpayer submits the preliminary tax return as to the capital gains derived from sales of capital assets: the due date for the preliminary tax return
- Where the individual taxpayer pays the income tax determined or adjusted by the government: the due date for payment
- Where the individual taxpayer submits an annual tax return:

the due date for submission of the tax return

- (b) In cases where the pro rata income inhabitant tax is assessed and collected by the government, the agent responsible for withholding the income or corporation tax or the person responsible to specially collect the farmland tax is additionally required to collect an amount of tax calculated by applying the pro rata tax rate to the amount of income tax, corporation tax, or farmland tax withheld or specially collected. After collecting the additional amount, the person responsible is required to pay the amount to the competent city or county by the 10th day of the month following the month of collection.

If the person responsible for the additional collection fails to pay the amount due within the prescribed time period, 10% of the unpaid tax will be assessed as a penalty

If a taxpayer fails to voluntarily file the tax return of the residential surtax of corporate income tax in time, 20% of the tax amount payable unreported shall be added as penalty on incorrect filing. In addition, in case of failure to pay the residential surtax of corporate income tax and individual income tax by the due date, penalty calculated by following formula shall be imposed:

The unpaid amount \times the number of delayed days \times 3/10,000

(3) Payment place and payment period

- (a) Where a per capita rate is applied in the assessment of tax, the payment place is the jurisdictional city or province of the domicile in the case of an individual, or that of the office in the case of a corporation. The base date of assessment is August 1 of each year and the payment period is August 16 through August 31.

- (b) In the case of pro rata income rate (per income tax, corporation tax, and farmland tax), the payment place is the city or province having jurisdiction over the respective place of payment of income tax, corporation tax, or farmland tax.

However, if in the case of pro rata corporation taxes, the business places of the corporation are located in more than two cities or counties, the jurisdictional city and province of the

respective business place shall be the payment place according to the provisions of the Presidential Decree.

- (c) In the case of inhabitant tax based on pro rata income collected specially, the payment place shall be as follows:
 - (i) wage and salary income: working place of the taxpayer;
 - (ii) interest and dividend income, etc.: payment place of the income concerned

e. Exemptions

The following are exempt from per capita inhabitant tax only:

- (1) state and local autonomous bodies
- (2) foreign government agencies and international organizations in Korea
- (3) foreign personnel working in foreign government agencies or international organizations based on reciprocity or
- (4) persons eligible for life support prescribed by the Life Supporting Law
- (5) schools, churches, Buddhist temples and social welfare facilities

* The collectible minimum for inhabitant tax is 2,000 won.

5. Property Tax

a. Taxpayer

- A. Land: Owners registered in the acreage taxation books under the Acreage law and other lands used effectively.
- B. Buildings: Owners subject to the subparagraph 2 of paragraph 1 of article 2 under the Construction Law and owners of facilities installed on the land or owners of leisure, storage and pipe facilities and etc. and other similar facilities attached to other structure.
- C. Houses: Owners under the paragraph 1 of Article 2. These houses are excluded from the scope of land and buildings.
- D. Vessels: owners registered in the ship taxation book as of the base date of assessment.
- E. Aircraft: owners registered in the aircraft taxation book as of

the base date of assessment

b. Tax Base

The current Standard Value for lands, buildings, houses, ships and aircraft

c. Tax Rates

(1) Land

a) General Combined Tax Rates

(Unit : 1000 won)

Tax Base		Tax Rate		
Over	Not more than	Tax amount +	%	Of an amount in excess ofwon
	50,000		0.2	
50,000	100,000	100	0.3	50,000
100,000		250	0.5	100,000

b) Special Combined Tax Rates

(Unit : 1000 won)

Tax Base		Tax Rate		
Over	Not more than	Tax amount +	%	Of an amount in excess ofwon
	200,000		0.2	
200,000	1,000,000	400	0.3	200,000
1,000,000		2,800	0.4	1,000,000

c) Separate Tax Rates

Tax Base	Tax rates (%)
1) dry field, rice paddies, orchard forests, pasture lots	0.07
2) land for golf courses and luxury amusement	4
3) land other than 1)2)	0.2

(2) Buildings

Tax Base	Tax rates (%)
a) building for golf courses and luxury amusement	4
b) building for factory	0.5
c) building other than a),b)	0.25

(3) Houses

Tax base	Tax rates (%)
a) villa	4

b) house other than a)

(Unit : 1000 won)

Tax Base		Tax Rate		
Over	Not more than	Tax amount +	%	Of an amount In excess of ...won
	40,000		0.15	
40,000	1,000,000	60	0.3	40,000

1,000,000		240	0.5	1,000,000
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(4) Vessels

- (a) high class vessels 5%
- (b) other vessels 0.3%

(5) Aircraft 0.3%

(6) In the case of newly built factories in regions with the population cap defined in the Metropolitan Planning Law, a tax rate equivalent to 500 percent of the foregoing tax rate is applicable as the rate of property tax for five years from the initial base date of assessment.

(7) Where it is deemed that tax rates need to be adjusted due to unavoidable reasons such as natural disaster or abrupt increase in fiscal demand, a mayor or a governor, as the case may be, may adjust the rates by up to 50% of the standard rates as specified in (1)~(5) above in accordance with pertinent ordinances. The rates adjusted, however, shall apply only for the tax year concerned on a one-off basis.

d. Payment

(1) Base date of assessment: June 1

(2) Payment period

- a) Lands: 9.16~9.30
- b) Buildings: 7.16~7.31
- c) Houses: 7.16~7.31(50% of tax assessment)
9.16~9.30 (the remaining)
- d) Vessels : 7.16~7.31
- e) Aircraft : 7.16~7.31

e. Exemptions

(1) Non-taxable properties

(a) Properties of the state, local autonomous bodies, or foreign governments

(b) Properties used directly by non-profit organizations to furnish religious or educational services, etc.

(2) Minimum taxable limit

When the property tax amount is less than 2,000 won, the collection of tax shall be waived.

6. Automobile Tax

a. Taxpayer

Persons who own automobiles

b. Taxation Period

1st period: January-June

2nd period: July-December

c. Tax Base and Tax Rates

(1) Automobiles

Annual tax amount per vehicle (discharge X tax amount per cc)			
Business use		Non-business use	
Engine displacement	Tax amount per cc	Discharge	Tax amount per cc
1,000 cc or less	18 won	800 cc or less	80 won
1,600 cc or less	18 won	1,000 cc or less	100 won
2,000 cc or less	19 won	1,600 cc or less	140 won
2,500 cc or less	19 won	2,000 cc or less	200 won
more than 2,500 cc	24 won	more than 2,000 cc	220 won

(2) Other Automobiles

Category	Annual tax amount per vehicle	
	Business use	Non-business use
Per vehicle	20,000 won	100,000 won

(3) Buses

Classification	Annual tax amount per vehicle	
	Business use (won)	Non-business use (won)
Express buses	100,000	-
Large-size chartered buses	70,000	-
Small-size chartered buses	50,000	-
Other large-size buses	42,000	115,000
Other buses	25,000	65,000

(4) Trucks

Cargo loading capacity	Annual tax amount per vehicle	
	Business use (won)	Non-business use (won)
1,000 kg or less	6,600	28,500
2,000 kg or less	9,600	34,500
3,000 kg or less	13,500	48,000
4,000 kg or less	18,000	63,000
5,000 kg or less	22,500	79,500
8,000 kg or less	36,000	130,500
10,000 kg or less	45,000	157,500

(5) Special Cars

Category	Annual tax amount per vehicle	
	Business use (won)	Non-business use (won)
Large-sized special car	36,000	157,500
Small-sized special car	13,500	58,500

(6) Cars with 3-wheels or less

Category	Annual tax amount per vehicle	
	Business use (won)	Non-business use (won)
Per vehicle	3,300	18,000

d. Payment

Automobile owners pay automobile tax according to the following payment period:

	Object period	Payment period
1st Period	January 1 ~ June 30	June 16 ~ June 30
2nd Period	July 1 ~ December 31	December 16 ~ December 31

e. Exemptions

- (1) Vehicles furnished for national defense, convoys, traffic police, fire service, ambulances, garbage collection, and road projects.
- (2) Automobiles used for postal, telephone, and telegraph services, or by diplomatic missions.
- (3) In the case of an original acquisition of an automobile, or in the case of

automobiles retired from service, calculated tax amount less than 2,000 won which is computed according to the number of holding days of those automobiles.

7. Agricultural Income Tax

a. Taxpayer

- (1) A person who earns income from cultivating or having a person cultivate crops
- (2) Co-earners of agricultural income are subject to agricultural income tax in proportion to the ratio of their shares or the distribution of profits and losses
- (3) The main taxpayer in a household is liable to agricultural income tax on the agricultural income of the household members

b. Tax Base

- (1) The amount remaining after deducting exemptions and basic deductions from the agricultural income
- (2) Basic deduction: 5.6 million won
- (3) Taxation period
 - (a) January 1 through December 31
 - (b) January 1 through the date of death, in the case of death of a resident
 - (c) January 1 through the date of going abroad, in the case of a resident who becomes a non-resident

c. Tax Rates

(unit: 1000 won)

Tax base		Tax rates		
Over	Not more than	Tax amount +	%	Of an amount in excess of ... won
	4,000		3	

4,000	10,000	120	10	4,000
10,000	40,000	720	20	10,000
40,000	80,000	6,720	30	40,000
80,000		18,720	40	80,000

d. Payment

(1) Interim pre-return and prepayment

A taxpayer is subject to interim pre-return and prepayment in accordance with the Presidential Decree.

(2) Final return and payment

A taxpayer is required to file a return in the respective taxable period and pay by the end of May of the following year the amount remaining after deducting:

- an amount of tax paid for interim prepayment
- an amount of tax for occasional assessment, and
- an amount of tax for special collection.

e. Exemptions

- (1) Agricultural income of the state, local autonomous bodies, or foreign governments
- (2) Income from farmland used for education
- (3) Income from reclaimed, filled, or waste land
- (4) When the tax amount is less than 2,000 won

f. Miscellaneous Rule

Imposition of the tax is suspended for 5 years from 2005 until the end of 2009.

8. Butchery Tax

a. Taxpayer

With respect to the slaughter of cattle or swine, the city or county in which the

slaughterhouse is located will assess the tax on the butchers.

b. Tax Base

- (1) The market price of cattle or swine
- (2) Taxation period: As prescribed by pertinent regulations

c. Tax Rates

- (1) The tax rate will not exceed 1% of the market price of cattle or swine being slaughtered.
- (2) The market price of cattle or swine is determined by the provincial governor based on prevailing prices as of January 1 and July 1 of each year.

d. Payment

Tax is collected in a manner prescribed by the pertinent regulations concerning persons operating slaughterhouses or other persons designated as persons liable to special collection.

e. Penalty Tax

An amount equivalent to 10% of the tax amount due

9. Leisure Tax

a. Taxpayer

- (1) Korea Horse Affair Association which manages and sells tickets to horse races
- (2) National Sports Promotion Corporation or local autonomous bodies which organize cycling races and boat races
- (3) Bull fighting organizers defined in the Traditional Bull Fighting Law

b. Tax Base

- (1) A total amount of selling horse race tickets

c. Tax Rates

10% of the amount obtained by selling horse-race tickets

d. Payment

Leisure tax shall be paid by the 10th day of the month following the month in which the issuance date of horse-race tickets falls upon.

e. Penalty Tax

If a taxpayer fails to voluntarily file the tax return in time, 10% of the unreported tax amount shall be added as penalty on incorrect filing.

In addition, in case of failure to pay tax liability by its due date or underpayment, penalty calculated by following formula shall be imposed:

The unpaid amount \times the number of delayed days \times 3/10,000

10. Tobacco Consumption Tax

The tobacco consumption tax was established as a local tax (city and county tax) on January 1, 1989.

a. Taxpayer

- (1) A person who sells manufactured tobacco within a city or county under the provisions of the Tobacco Monopoly Law
- (2) Importer of tobacco

b. Tax Base

Volume of tobacco

c. Tax Rates

Item	Tax Rate
Cigarettes	641 won per 20 pieces
Pipe tobacco	1,150 won per 50g
Cigars	3,270 won per 50g
Chewing tobacco	1,310 won per 50g
Snuff	820 won per 50g

d. Payment

The taxpayer is required to file a return and pay the tax to the Mayor or county Commissioner by the end of the following month.

e. Exemptions

Tobacco manufactured for export, those sold in duty free shops, aboard international flights, and so on

11. Urban Planning Tax

a. Taxpayer

Persons who own land or houses within areas designated for assessment of city planning tax by the mayor or the commissioner

b. Tax Base

- (1) Value of land or house
- (2) Taxation period: as prescribed by relevant regulations

c. Tax Rates

Standard rate is 0.15% of the value of the land or house. However, a mayor or a governor, as the case may be, may change the tax rate in accordance with pertinent ordinances and, in such case, the rate cannot exceed 0.23%.

d. Payment

As prescribed by the pertinent regulations

12. Community Facility Tax

a. Taxpayer

Persons that benefit from fire-service facilities, garbage disposal systems, sewage facilities, or other similar facilities

b. Tax Base

(1) For fire-service facility: value of the house or vessels

For other cases: value of land or house

(2) Taxation period: as prescribed by pertinent regulations

c. Tax Rates

(1) In the case of fire-services facilities:

(Progressively rated)

6 million won or less	0.05%
13 million won or less	0.06%
26 million won or less	0.07%
39 million won or less	0.09%
64 million won or less	0.11%
Over 64 million won	0.13%

(2) In the case of an oil storage, a gasoline station, oil refinery, department store, hotel, theatre, etc., the applicable tax rate shall be increased to 200% of the rates prescribed in item (1).

(3) In other cases: Standard rate is 0.023%

d. Payment

As prescribed by pertinent regulations.

13. Business Place Tax

a. Taxpayer

Traders who have registered their business place as of July 1 of each year and traders who pay salaries or wages to employees

b. Tax Base

- (1) Per property: Workshop area as of the base date of assessment
- (2) Per employee: Monthly payroll of employees

c. Tax Rates

- (1) Per property: 250 won per square meter
- (2) Per employee: 0.5% of the payroll

d. Payment

- (1) Taxpayers of Business Place Tax Per Employee are required to pay the tax amount by the 10th of the following month based on self-compliance.
- (2) Taxpayers of Business Place Tax per property are required to pay the tax amount during the period July 1 through July 10 based on self-compliance.
- (3) The Business Place Tax is not assessed where the number of employees is less than 50 persons and or where the workshop area is less than 330 square meters.

e. Penalty Tax

- (1) In case of failure to file a return by its due date, the penalty equal to 20% of the unreported tax amount shall be imposed.
- (2) In case of failure to pay tax by its due date or underpayment of the tax due, penalty calculated by following formula shall be imposed:

The unpaid amount × the number of delayed days × 3/10,000

f. Exemptions

(1) Non-taxation

- (a) The state, local autonomous bodies and associations of local autonomous bodies
- (b) Foreign government organizations stationed in Korea
- (c) International organizations and foreign aid missions stationed in Korea
- (d) Corporations fully invested by the State, province, city, country, or associations of local autonomous bodies
- (e) Public benefit traders who carry on a sacrificial rite, religious service, charity, academic research, or other non-profit activities

(2) Exemption and reduction:

When the size of a workshop is 330 square meters or less, the Business Place Tax per property is exempt; when the total number of employees is 50 or less, Business Place Tax per employee is exempt.

14. Regional Development Tax

a. Taxpayer

- (1) Exploiters of natural resources
- (2) Those who load or unload containers in harbors

b. Tax Base and Tax Rates

- (1) Water for generating electricity: 2 won per 10 m³
- (2) Subterranean water: 20 ~ 200 won per 1 m³
- (3) Underground resources: 0.5% of the resource value
- (4) Containers: 15,000 won per 1 TEU
- (5) Nuclear power generation: 0.5 won per 1kwh

c. Payment

- (1) Place of tax payment
 - (a) Water for generating electricity: province having jurisdiction over the area where the power plant is located

- (b) Subterranean water: province having jurisdiction over the area where the hole drilled for pumping up water is located
 - (c) Underground resources: province having jurisdiction over the area where the land for which the mining right has been registered is located
 - (d) Containers: province having jurisdiction over the quay handling the container
 - (e) Nuclear power generation: province having jurisdiction over the location of the power plant
- (2) Tax rate may be changeable in the range of 50% of the standard tax rate based on the provincial ordinances.

d. Penalty Tax

- (1) In case of failure to file the tax return in time, 20% of the unreported tax amount shall be added as penalty on incorrect filing.
- (2) In case of failure to pay tax liability by its due date or underpayment, penalty calculated by following formula shall be imposed:
The unpaid amount × the number of delayed days × 3/10,000

e. Forgiving Minimal Amount of Tax Amount Due

If any tax amount due as regional development tax (contained in a letter of notification) is less than 2,000 won, such tax due shall be forgiven.

15. Motor Fuel Tax

a. Taxpayer

Those who are liable for the transportation·energy·environment tax in respect of gasoline, diesel and similar alternative oil

b. Tax Base and Tax Rates

- (1) Tax base: the transportation·energy·environment tax due in respect of gasoline, diesel and similar alternative oil
- (2) Tax rate: 26.5 %

c. Payment

Taxpayers are required to pay tax to the city or district where their residences are

located.

d. Penalty Tax

(1) In case of failure to file the tax return in time, 10% of the unreported tax amount shall be added as penalty on incorrect filing.

(2) In case of failure to pay tax liability by its due date or underpayment, penalty calculated by following formula shall be imposed:

The unpaid amount × the number of delayed days × 3/10,000

16. Local Education Tax

a. Taxpayers

Taxpayers of registration tax, leisure tax, per capita inhabitant tax, property tax, tobacco consumption tax, and automobile tax

b. Tax Base and Tax Rates

Taxpayer	Tax Base	Standard Tax Rate
Taxpayer of per capita Inhabitant Tax	Inhabitant tax amount payable pursuant to the Local Tax Law	10% (25% in cities with population exceeding 500,000)
Taxpayer of Registration Tax	Registration tax amount payable pursuant to the Local Tax Law	20%
Taxpayer of Leisure Tax	Leisure tax amount payable pursuant to the Local Tax Law	40% (60% until the end of 2008)
Taxpayer of Property Tax	Property tax amount payable pursuant to the Local Tax Law	20%
Taxpayer of Automobile Tax	Automobile tax amount payable pursuant to the Local Tax Law	30%
Taxpayer of Tobacco Consumption Tax	Tobacco consumption tax amount payable pursuant to the Local Tax Law	50%

c. Payment

(1) Taxpayers that are making Registration Tax, Leisure Tax, or Tobacco Consumption Tax payments are required to pay the Local Education

Tax concurrently.

- (2) In cases where Inhabitant Tax, Property Tax and Automobile Tax are collected, the corresponding Local Education Tax shall also be levied.

d. Penalty Tax

- (1) In case of failure to file the tax return in time, 10% of the unreported tax amount shall be added as penalty on incorrect filing.
- (2) In case of failure to pay tax liability by its due date or underpayment, penalty calculated by following formula shall be imposed:

The unpaid amount \times the number of delayed days \times 3/10,000

<Appendix I> A Summary of Income Taxation for Non-residents

Individual income tax

Individual Income Taxation

	Resident	Non-Resident
Definition	Residence or domicile in Korea for more than one year	Any person not deemed a resident
Taxable Place	Residence or domicile	Place of business (fixed base) or place of income source
Tax Liability	Worldwide income	Income from sources within Korea
Methods of Taxation	Global Taxation	Global taxation (in case of fixed base)
	Schedular taxation for capital gains and retirement income	Schedular taxation for capital gains and retirement income
	Withholding taxation	Withholding taxation

Taxation on Non-Residents with a Fixed Base

(Unit: 1,000 won)

Taxable income (Tax base)		Tax rates and brackets
Over	Not over	
	10,000	8%
10,000	40,000	800 + 17% of amount over 10,000
40,000	80,000	5,900 + 26% of amount over 40,000
80,000		16,300 + 35% of amount over 80,000

Taxation on Non-Residents without a Fixed Base

Items of Income	Current Domestic Rates
Interest	25% (14% applicable to interest derived from bonds issued by the State, local authorities and domestic companies)
Dividends	25%
Real Estate Rental Income	*
Lease Income	2%
Business Income	2%
Independent Personal Services	20%
Dependent Personal Services	*
Retirement Income Capital Gains Income	*
Capital Gains Income	*
Royalties	25%
Capital Gains from Securities Transactions	Lesser of 10% of sales or 25% of the gains
Miscellaneous Income	25%

* Tax rates applied to non-residents without a fixed base are identical to those applied to non-residents with a fixed base.

Corporate Income Tax

Corporate Income Taxation

	Resident corporation	Non-resident corporation
Definition	① A corporate business entity with its head or main office in Korea; or ② A corporate business entity with its place of effective management in Korea	A corporate business entity with its head or main office or place of effective management outside Korea
Taxable place	Head/ main office or place of effective management	Permanent establishment or place of income source
Tax liability	Worldwide income	Income from sources within Korea
Income repaying	Global taxation Special additional tax	Global taxation (in case of permanent establishment) Special additional tax Withholding tax (in case of no permanent establishment) Schedular taxation (capital gains)

Taxation on Non-resident Corporations with Permanent Establishment

Taxable income (Tax base)		Tax rates and tax brackets
Over	Not over	
	100 million won	13%
100 million won		13 million won + 25% of the amount over 100 million won

Taxation on Non-Resident Corporations without Permanent Establishments

Items of Income	Current Domestic Rates
Interest	25% (14% applicable to interest derived from bonds issued by the State, local authorities and domestic companies)
Dividends	25%
Real Estate Income	*
Lease Income	2%
Business Income	2%
Independent Personal Services	20%
Capital Gains Income	*
Royalties	25%
Capital Gains from Securities Transaction	Lesser of 10% of sales or 25% of the gains
Miscellaneous Income	25%

* Tax rates applied to non-resident corporations without a permanent establishment are identical to those applied to non-resident corporations with a permanent establishment.

List of Tax Conventions

Countries	Date of Signature			Date of Entry into Force		
Japan (revised)	Oct.	8,	1998	Nov.	22,	1999
Thailand	Aug	26,	1974	Oct.	12,	1977
Germany (revised)	Mar.	10,	2000	Oct.	31,	2002
United Kingdom (revised)	Oct.	25,	1996	Dec.	29,	1996
Belgium (revised)	Apr.	20,	1994	Dec.	31,	1996
Denmark	Nov.	11,	1977	Jan.	17,	1979
United States	June	4,	1976	Oct.	20,	1979
Canada (revised)	Sept.	5,	2006	Dec.	18,	2006
France (revised)	Apr.	9,	1991	Mar.	1,	1992
Singapore	Nov.	16,	1979	Feb.	11,	1981
Netherlands (revised)	Nov.	6,	1998	Apr.	2,	1999
Switzerland	Feb.	12,	1980	Apr.	22,	1981
Finland	Feb.	8,	1979	Dec.	23,	1981
Sweden	May	27,	1981	Sep.	9,	1982
Malaysia	Apr.	20,	1982	Jan.	2,	1983
New Zealand (revised)	July	14,	1997	Oct.	10,	1997
Australia	July	12,	1982	Jan.	1,	1984
Norway	Oct.	5,	1982	Mar.	1,	1984
Bangladesh	May	10,	1983	Aug.	22,	1984
Turkey	Dec.	24,	1983	Mar.	27,	1984
Sri Lanka	May	28,	1984	June	20,	1986
India	July	19,	1985	Aug.	31,	1986
Philippines	Feb.	21,	1984	Nov.	9,	1986
Luxembourg	Nov.	17,	1984	Dec.	26,	1986
Pakistan	Apr.	13,	1987	Oct.	20,	1987
Austria (revised)	May	28,	2001	Mar.	30,	2002

Indonesia	Nov.	10,	1988	May	3,	1989
Tunisia	Sep.	27,	1988	Nov.	25,	1989
Hungary	Mar.	29,	1989	Apr.	1,	1990
Brazil	Mar.	7,	1989	Nov.	21,	1991
Ireland	July	18,	1990	Dec.	27,	1991
Poland	June	21,	1991	Feb.	21,	1992
Italy	Jan.	10,	1989	July	14,	1992
Mongolia	Apr.	17,	1992	June	6,	1993
Egypt	Dec.	9,	1992	Feb.	6,	1994
Vietnam	May	20,	1994	Sep.	9,	1994
China	Mar.	28,	1994	Sep.	28,	1994
Romania	Oct.	11,	1993	Oct.	6,	1994
Spain	Jan.	17,	1994	Nov.	21,	1994
Mexico	Oct.	6,	1994	Feb.	11,	1995
Fiji	Sep.	19,	1994	Feb.	17,	1995
Czech Republic	Apr.	27,	1992	Mar.	3,	1995
Bulgaria	Mar.	11,	1994	June	22,	1995
Russia	Nov.	19,	1992	Aug.	24,	1995
South Africa	July	7,	1995	Jan.	7,	1996
Israel	Mar.	18,	1997	Dec.	13,	1997
Portugal	Jan.	26,	1996	Dec.	21,	1997
Malta	Mar.	25,	1997	Mar.	21,	1998
Papua New Guinea	Nov.	23,	1996	Mar.	21,	1998
Greece	Mar.	20,	1995	July	10,	1998
Uzbekistan	Feb.	11,	1998	Dec.	25,	1998
Kazakhstan	Oct.	18,	1997	Apr.	9,	1999
Kuwait	Dec.	5,	1998	June	13,	2000
Morocco	Jan.	27,	1999	July	1,	2000
Slovakia	Aug.	27,	2001	July	8,	2003

Nepal	Oct.	5,	2001	May	29,	2003
Myanmar	Feb.	22,	2002	Aug.	4,	2003
Chile	Apr.	18,	2002	July	25,	2003
Belarus	May.	20,	2002	June	17,	2003
Ukraine	Sep.	29,	1999	Mar.	19,	2002
U.A.E	Sep.	23,	2003	Mar.	2,	2005
Jordan	July	24,	2004	Mar.	28,	2005
Laos	Nov.	29,	2004	Feb.	9,	2006
Oman	Sept.	23,	2005	Feb.	13,	2006
Slovenia	Apr.	25,	2005	Mar.	2,	2006
Albania	May	17,	2006	Jan.	13,	2007
Algeria	Nov.	24,	2001	Aug.	31,	2006
Croatia	Nov.	13,	2002	Sept.	15,	2006
Venezuela	June	26,	2006	Jan.	15,	2007
Lithuania	April	20,	2006	July	14,	2007

Withholding Tax Rates in Korea

The normal withholding tax rates on the Korean-source income of non-residents are as follows:

Korean-Source Income	Withholding Tax Rates
Gross Revenue from Business	2%
Compensation for Personal Services	20%
Gain Developed from Securities Transactions	10% of sales price or 25% of the difference between sales price and seller's original cost, whichever is less
Dividends, Interest, Royalties, and Miscellaneous Income	25% (14% applicable to interest derived from bonds issued by the State, local authorities and domestic companies)

In addition to the withholding tax rates given above, inhabitant surtax of 10% is assessed on these withholding taxes.

There are various limitations on these withholding taxes for residents of countries with a tax treaty with Korea. For dividends, interest, and royalties, the withholding tax rates are limited as follows:

Country	Withholding Rates in Outward Remittances		
	Dividends (%)	Interest (%)	Royalties (%)
Albania	5, 10	10	10
Algeria	5, 15	10	2, 10
Australia	15	15	15
Austria	10, 15	10	10
Bangladesh	10, 15	10	10
Belarus	5, 15	10	5

Belgium	15	10	10
Brazil	15	10, 15	15, 25
Bulgaria	5, 10	10	5
Canada	5, 15	10	10
Chile	5, 10	10, 15	5, 15
China	5, 10	10	10
Croatia	5, 10	5	0
Czech Republic	5, 10	10	10
Denmark	15	15	10, 15
Egypt	10, 15	10, 15	15
Fiji	10, 15	10	10
Finland	10, 15	10	10
France	10, 15	10	10
Germany	10, 15	10, 15	10, 15
Greece	5, 15	8	10
Hungary	5, 10	0	0
India	15, 20	10, 15	15
Indonesia	10, 15	10	15
Ireland	10, 15	0	0
Israel	5, 10	7.5, 10	2, 5
Italy	10, 15	10	10
Japan	5, 15	10	10
Jordan	10	10	10
Kazakhstan	5, 15	10	10
Kuwait	10	10	15
Laos	5, 10	10	5
Luxembourg	10, 15	10	10, 15
Malaysia	10, 15	10	10, 15
Malta	5, 15	10	0
Mexico	0, 15	5, 10, 15	10

Mongolia	5	5	10
Morocco	5, 12	10	5, 10
Myanmar	10	10	10, 15
Nepal	5, 10, 15	10	15
Netherlands	10, 15	10, 15	10, 15
New Zealand	15	10	10
Norway	15	15	10, 15
Oman	5, 10	5	8
Pakistan	10, 12.5	12.5	10
Papua New Guinea	15	10	10
Philippines	10, 25	10, 15	15
Poland	5, 10	10	10
Portugal	10, 15	15	10
Romania	7, 10	10	7, 10
Russia	5, 10	0	5
Singapore	10, 15	10	15
Slovakia	5, 10	10	10
Slovenia	5, 15	5	5
South Africa	5, 15	10	10
Spain	10, 15	10	10
Sri Lanka	10, 15	10	10
Sweden	10, 15	10, 15	10, 15
Switzerland	10, 15	10	10
Thailand	15, 20, 25	10	15
Tunisia	15	12	15
Turkey	15, 20	10, 15	10
Ukraine	5, 15	5	5
U.A.E.	5, 10	10	0

United Kingdom	5, 15	10	2, 10
United States	10, 15	12	10, 15
Uzbekistan	10, 15	5	2.5
Venezuela	5, 10	5, 10	5, 10
Vietnam	10	10	5, 15

This book is published to present a brief overview of the Korean Tax Law. If any discrepancies are found between its contents and the current Korean Tax Code, the latter shall prevail. If you have any questions about the contents of this book, please contact Tax Treaties Division of the Ministry of Strategy and Finance of Korea by phone: (822) 2150-4354,4362 by fax: (822) 507-4841, or by email:

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