



February 2026

# NEWSLETTER

Tax Group

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## Selected 2026 Amendments to Tax Laws and related Presidential Decrees (International Taxation)

In December 2025, the National Assembly enacted tax law amendments that had previously been proposed by the Ministry of Economy and Finance (**MOEF**). These included amendments to the Corporate Income Tax Law (**CITL**), Individual Income Tax Law (**IITL**), International Tax Coordination Law (**ITCL**) and Restriction of Special Taxation Law (**RSTL**), National Tax Basic Law (**NTBL**), among others.

On January 16, 2026, the MOEF published proposed amendments to the Presidential Decrees<sup>1</sup> to the tax law, including the Presidential Decrees to the CITL (**CITL-PD**), IITL (**IITL-PD**), ITCL (**ITCL-PD**) and RSTL (**RSTL-PD**) and NTBL (**NTBL-PD**), among others. Presidential Decrees are regulations published by the MOEF to elaborate details or specify matters prescribed in the tax law. Unlike tax law amendments, the amendment to the Presidential Decree were promulgated and entered into force in February 27, 2026, following the public notice and comment period, January 19 to February 5, 2026, and the completion of deliberations at the Vice Ministers' Meeting and the State Council.

The key items of this reform package relating to international taxation and cross-border investments are summarized below.

Unless otherwise stated, all changes are effective as of the date of promulgation by the MOEF.



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## 1. Improvement to the Application Method for Foreign Tax Credits on Indirect Investments

### ① Revised Method for Individual Investors<sup>2</sup>

For individual investors that are subject to comprehensive taxation, the IITL amendments introduce a new method for applying for foreign tax credits in respect of indirect investments (e.g. investments through a fund). Previously, if an individual earned foreign income indirectly, their foreign tax credit was calculated using a formula based on their Korean tax rate. This often limited the credit.

But under the new rule prescribed in the IITL amendments, the foreign tax credit is based on the actual foreign tax already paid or withheld, adjusted using specific adjustment factors.<sup>3</sup>

### ② Rationalization of the Foreign Tax Credit Mechanism for Corporate Investors<sup>4</sup>

Previously, under the CITL, indirect foreign income taxes were not included in the company's taxable income or in the foreign tax credit limit calculation. Because of this, a Korean company effectively could not fully claim credit for those foreign income taxes. Specifically, the limitation was calculated as: [Korean corporate income tax liability x (Total income received from funds / taxable base)]. Because indirect foreign income taxes were not included in either the taxable base or the limitation formula, they were not appropriately reflected in determining the allowable credit.

To address this structural issue, the CITL amendments introduced a new provision<sup>5</sup> requiring that indirect foreign income taxes eligible for credit be included in gross income and, consequently, reflected in the taxable base. In addition, the foreign tax credit limitation formula has been amended<sup>6</sup> as follows: [Korean corporate income tax liability x (Total income received from funds + Indirect foreign income tax) ÷ Taxable base)]. This amendment ensures that indirect foreign income taxes are appropriately taken into account in calculating the foreign tax credit limitation.

## **2. Introduction of a Penalty for Failure to Submit Foreign Company's Liaison Office Status Report<sup>7</sup>**

The obligation for foreign companies to submit an annual information report regarding the status of their liaison offices was introduced in 2022.<sup>8</sup> However, the absence of specific sanctions for non-compliance has limited the effectiveness of the regime, as instances of non-compliance have been frequent.

The CITL amendments contain a new provision to strengthen enforcement,<sup>9</sup> whereby the tax authority may issue a corrective order to a foreign company that fails to submit a liaison office status report with the requisite details, or that submits false information. Non-compliance with such an order can result in an administrative penalty of up to KRW 10 million.

## **3. Expansion of the Tax Base and Refinement of the Exit Tax Regime<sup>10</sup>**

Under the IITL, exit tax<sup>11</sup> is a deemed capital gains tax on certain Korean company shares held by a Korean resident at the time of his/her permanent departure, when the individual ceases to be a Korean tax resident and satisfied specified requirements.

In light of the increasing volume of overseas equity investments by Korean residents, the scope of the exit tax was broadened to include foreign company shares under IITL amendment. The detailed taxation requirements and scope of applicable foreign shares have been delegated to the IITL-PD.

Specifically, the amended IITL-PD<sup>12</sup> provides that the following foreign company shares shall be excluded from exit tax regime: 1) foreign shares held by the departing resident where the total value does not exceed KRW 500 million at the time of departure; 2) foreign shares held by a foreign national working in Korea, provided that the foreign national was physically present and working in Korea for at least 80% of the worker's Korean residence period during the ten years preceding the date of departure; and 3) foreign shares acquired by the foreign national's spouse and under-age children prior to the commencement of the foreign national's period of working in Korea. Items (2) and (3) apply only where the foreign national departs Korea within six months from the termination date of his or her employment in Korea).

The IITL-PD amendments<sup>13</sup> also further clarify the method for determining the deemed transfer value of foreign company shares subject to exit tax regime: 1) the listed shares are valued at the legally prescribed benchmark value per IITL; and 2) unlisted shares are valued based on a weighted average of the net profit value(3) and net asset value(2) per share.<sup>14</sup>

These amendments will apply to individuals departing Korea on or after January 1, 2027.

#### **4. Enhancements to the Global Minimum Tax Regime and Introduction of the Domestic Minimum Top-up Tax (“DMTT”)**

In response to the OECD Pillar Two framework, Korea introduced the Income Inclusion Rule (**IIR**) and the Under-taxed Payments Rule (**UTPR**) through earlier amendments to the ITCL promulgated on December 31, 2022. The IIR has applied from January 1, 2024; and the UTPR has applied from January 1, 2025.

In the 2025 ITCL amendments, the DMTT was also introduced.<sup>15</sup> In parallel, the Presidential Decree Amendments to the ITCL further refine and align Korea’s global minimum tax framework. In particular: (i) the domestic rules have been aligned with the OECD Global Anti-Base Erosion (GloBE) Model Rules and accompanying Commentary; (ii) the deadline for applying the transitional Country-by-Country Reporting (**CbCR**) safe harbor was extended, reflecting the OECD administrative guidance (until January 5, 2026); and (iii) detailed calculation methods and procedural requirements for the implementation of the DMTT have been set out. A detailed summary of the relevant amendments are as follows.

##### **A. Complementing the Global Minimum Tax Framework<sup>16</sup>**

The ITCL-PD has been amended to align more closely with the GloBE Model Rules and accompanying Commentary. The key amendments are summarized below:

- 1) Amendment to Art. 101 of the ITCL-PD clarifies the method for determining whether the consolidated revenue threshold is met after a merger. Where a standalone company merges with a corporate group, the company’s turnover must be aggregated with the group’s consolidated revenue for the purposes of assessing the threshold.

- 2) Amendments to Arts. 111(1) and (2) of ITCL-PD expand the scope of allocation of top-up tax to include entities that are not Constituent Entities (**CEs**) of the multinational enterprise (**MNE**) group but are nonetheless subject to the adjusted covered taxes.
- 3) Amendment to Art. 111(1)(3) of ITCL-PD clarifies that, where the jurisdiction of establishment does not operate a corporate income tax system, hybrid entity rules also apply to entities that are not treated as taxable entities under Art. 108(2) of ITCL-PD.
- 4) New provisions in Arts. 111(3) and (4) of ITCL-PD introduce a method for allocating accounting deferred tax expenses of a CE for the purposes of calculating adjusted covered taxes. The rules clarify how deferred tax expenses may be allocated or excluded in determining adjusted covered taxes.
- 5) Amendment to Art. 119 of ITCL-PD amends the terminology used in calculating the current additional top-up tax under Art. 40(4) of the ITCL. The previous references to "estimated adjusted covered tax" and "adjusted covered tax" are replaced with "estimated aggregate amount of adjusted covered taxes" and "aggregate amount of adjusted covered tax" to ensure greater clarity and consistency.
- 6) Amendment to Art. 125-2 of ITCL-PD clarifies the statutory allocation method among domestic CEs in respect of top-up tax allocated under the UTPR, specifying the allocation ratio by reference to the location of the ultimate parent entity (**UPE**).
- 7) Amendment to Art. 133(1) of ITCL-PD refines the terminology applicable to deductions from GloBE income where the UPE is a flow-through entity. The phrase "tax resident in the UPE's jurisdiction" is replaced with "established and operated in the UPE's jurisdiction" to better reflect the legal status of such entities.
- 8) Amendment to Art. 139 of ITCL-PD revises the method for calculating the total deferred tax adjustment amount for the first year of application and subsequent fiscal years, thereby enhancing consistency in the operation of the regime.

## **B. Extension of the Transitional CbCR Safe Harbor<sup>17</sup>**

- 1) The ITCL-PD amendments will also extend the application period of the transitional CbCR safe harbor. This safe harbor deems that no top-up tax is payable where the simplified effective tax rate (ETR), calculated based on CbCR data under the simplified methodology, meets the prescribed threshold (15–17%). The deadline for applying the Transitional CbCR Safe Harbor has been extended by one year, to fiscal year beginning before December 31, 2027 and ending before June 30 and the applicable simplified ETR threshold for the extended period has been set at 17%. Additionally, the exemption from the UTPR, which provides that no UTPR top-up tax is allocated where the statutory corporate tax rate in the UPE's jurisdiction is at least 20%, has also been extended. This exemption applies to fiscal years beginning before December 31, 2025 and ending before December 30, 2026.

## **C. Introduction of the DMTT**

The ITCL-PD amendments also introduce DMTT in line with the OECD GloBE Model Rules and related administrative guidance. The DMTT is intended to meet the requirements as a Qualified DMTT (QDMTT) under the OECD Inclusive Framework, subject to peer review and approval. The amount of QDMTT is calculated as follows: [Minimum tax rate (15%) – ETR of domestic CEs] x Excess profit (Net GloBE income – Substance Based Income) + Current Additional Top-up Tax. Given that Korea's statutory corporate income tax rate ranges from 10% to 25%, exclusive of local taxes, under the CITL amendments, it is not anticipated that a significant number of domestic corporations will fall below the 15% minimum rate. However, where the ETR is reduced due to tax incentives, exemptions, or credits, the DMTT may become applicable. In such cases, the QDMTT will take precedence over the IIR and the UTPR.

A detailed summary of the ITCL-PD amendments are summarized below:

### **1) Calculation of Adjusted Covered Taxes for Purposes of the Domestic Top-up Tax (DMTT)<sup>18</sup>**

In determining the DMTT, the calculation of adjusted covered taxes generally follows the methodology prescribed under the GloBE framework. However, certain covered taxes allocated

to a domestic CE from foreign CEs for the purposes of the GloBE calculation are excluded when computing the DMTT.

The specific scope of such exclusions has been delegated to the ITCL-PD. Under the ITCL-PD amendments, the following covered taxes are excluded from the calculation of adjusted covered taxes for DMTT purposes: (i) covered taxes recorded by a foreign head office that are attributable to income derived by a domestic permanent establishment (PE); and (ii) covered taxes recorded by a foreign shareholder CE that are attributable to: 1) income of hybrid entities that are domestic CEs; 2) dividend income received from domestic CEs; and 3) Income of domestic CEs treated as controlled foreign corporations (CFCs).

## **2) Scope of Permanent Establishments (“PEs”) Subject to the DMTT<sup>19</sup>**

The scope of PEs subject to the DMTT, particularly in the case of a stateless or flow-through entity deemed not to have a jurisdiction of residence, has been delegated to the ITCL-PD. Under the ITCL-PD amendments, where the head office conducts business in Korea through a “Type 4 PE” (a PE whose income is not subject to taxation in any jurisdiction), the DMTT will be computed separately with respect to that PE.

## **3) Statutory Apportionment of DMTT Among Domestic CEs<sup>20</sup>**

The DMTT attributable to an MNE group may be allocated among domestic CEs either through a statutory allocation method or a designated allocation method.

The detailed statutory allocation rules have been delegated to the ITCL-PD. Under the ITCL-PD amendments: (i) in principle, the DMTT is allocated in proportion to the GloBE income of each domestic CE; and (ii) where there is no net GloBE income for the relevant fiscal year, but DMTT arises due to accumulated adjustments, the allocation is determined as follows: 1) where the ETR and DMTT are recalculated for a prior fiscal year, the additional domestic tax is allocated based on the GloBE income of each CE for that prior year; and 2) where the adjusted covered tax amount is lower than the estimated adjusted covered tax amount and the difference is treated as additional DMTT, the tax is allocated in proportion to the difference calculated for each CE.

#### **4) Reporting and Payment of DMTT<sup>21</sup>, Calculation of GloBE Top-up Tax that apply to other DMTT<sup>22</sup>, and Other Special Rules<sup>23</sup>**

The reporting and payment procedures applicable to the allocation of the DMTT follow the same framework as that applicable to the allocation of top-up tax under the global minimum tax regime.

In addition, the methods for calculating covered taxes, adjustments to covered tax, and determining the ETR follow the same methodology as that used for the calculation of top-up tax for global minimum tax purposes. Various special provisions applicable to the global minimum tax (such as the de minimis exclusion, special rules for minority-owned entities, investment CEs, and joint ventures, as well as applicable exclusions) also apply to the DMTT.

#### **5. Introduction of a Domestic Investment Income Exemption for the Bank for International Settlements (“BIS”)<sup>24</sup>**

BIS is an international financial institution established to promote cooperation among central banks worldwide. Funds deposited with the BIS by national central banks and international organizations are invested and managed in assets of major jurisdictions. At present, the BIS invests in Korean government bonds and monetary stabilization securities (treasury bills), which are exempt from Korean taxation.

To support the BIS’s expansion of KRW-denominated investments, the BIS’s domestic investment income (interest, dividends, securities transfer gains, and other income) is now included within the scope of tax exemption applicable to interest income from international financial transactions.<sup>25</sup>

The RSTL-PD amendments (Art. 18) further delegates detailed matters, including the scope of eligible international financial organizations, the specific categories of exempt income, the application procedure for exemption, and the process for claiming such exemption. Specifically: 1) “Other income” eligible for exemption is limited to income derived from economic benefits related to domestic assets under Art. 93(10) k) of the CITL; 2) the application procedure for exemption follows the existing procedure applicable to interest and transfer income from government bonds earned by foreign corporations; and 3) the claim procedure for exemption follows the procedure applicable to treaty-based tax exemptions for foreign companies.

## **6. Introduction of Special Tax Treatment for In-kind Contribution of Shares in a Foreign Company<sup>26</sup>**

To support the overseas business restructuring of domestic corporations, the amended RSTL introduces a tax deferral mechanism for capital gains arising from the in-kind contribution of shares in a foreign company by a domestic corporation to another foreign company. Under this provision, where a domestic corporation that has been in business for at least five years makes an in-kind contribution of shares or equity interests in a foreign subsidiary in which it holds at least 20% to a foreign corporation in which it holds at least 80%, taxation of the capital gains arising from the transaction is deferred for 4 years. The deferred capital gains are then included in taxable income in equal installments over the subsequent 3 years.

Detailed matters including the method for calculating the deferred capital gain and the circumstances triggering termination of the deferral (such as a subsequent disposal of the contributed shares) have been delegated to the RSTL-PD amendments. Under the amended RSTL-PD, where shares acquired through the in-kind contribution are subsequently disposed of, the amount to be included in taxable income is calculated as follows:

Capital gains from the in-kind contribution not yet included in taxable income as of the end of the previous fiscal year  $\times$  (Number of shares disposed of during the fiscal year  $\div$  Number of shares held at the end of the previous fiscal year that were acquired through the in-kind contribution).

In addition, the tax deferral will be terminated where: (i) the transferee disposes of more than 50% of the shares in the foreign corporation acquired through the in-kind contribution; or (ii) the contributing company's ownership interest in the transferee falls below 50%. In such cases, the entire remaining balance of the deferred capital gain that has not yet been included in taxable income will be recognised as income in the relevant fiscal year.

## **7. Clarification of the Criteria for Recognizing an "Agent PE"<sup>27</sup>**

The IITL-PD and CITL-PD amendments align the criteria for recognizing an Agent PE with OECD standards. In particular, the requirement has been revised from referring to "an independent agent that conducts a significant portion of its business primarily for a specific foreign corporation" to "an independent agent that conducts a significant portion of its business wholly or almost wholly for a related party."

## **8. Streamlining Documentation for Claims of Exemption on Interest and Capital Gains from Government Bonds<sup>28</sup>**

The CITL amendments simplifies the documentation requirements for non-residents and foreign companies seeking tax exemption on interest and capital gains derived from government bonds. In particular, the former “Application for Tax Treaty Exemption or Reduction” has been renamed the “Tax Treaty Exemption Claim Form for Interest and Capital Gains on Government Bonds.” In addition, the revised rules permit the submission of alternative documentation demonstrating non-resident or foreign company status in lieu of the previously required certificate of residence.

This amendment applies to claims filed on or after the effective date of the revised provisions.

## **9. Expansion of the Scope of Partial Tax Audits in Relation to Advance Pricing Agreements (“APAs”)<sup>29</sup>**

Previously, where an application for an APA is submitted prior to the notification of a tax audit, the audit may be suspended solely with respect to the transfer pricing aspects of the relevant international transactions for the period covered by the APA application.<sup>30</sup> The NBTL-PD amendments expanded the scope of partial tax audits in order to enhance the effectiveness of tax audit with respect to the APA implementation. Under the amended NBTL-PD, even where an APA application is subsequently cancelled, withdrawn, or the review process is suspended after submission, the tax authorities may conduct a partial tax examination in respect of the matters covered by the APA application.

This measure will apply to tax audits initiated on or after the effective date of the amended NBTL-PD (expected to be in the last week of February 2026, since it takes effect immediately upon promulgation).

The Tax Group at Lee & Ko possesses extensive experience and expertise in both domestic and international tax matters. Please feel free to contact us should you require assistance with any tax-related matters, including those discussed in this newsletter.

1. Also referred to as Enforcement Decrees.
2. IITL, Art. 57-2(2) and (3); IITL-PD Art. 117-2(3) and (5)
3. IITL, Art. 57-2(2)
4. CITL, Art. 15(2) and 57-2(1)-(3); CITL-PD, Art. 94-2(3) - (4)
5. CITL, Art. 15(2), sub-paragraph 3
6. CITL, Art. 57-2(2)
7. Art. 124(2) of the CITL, Appendix 2 to the CITL-PD
8. CITL, Art. 94(2)
9. CITL, Art. 124(2)
10. IITL, Art. 118-9 to 118-18; IITL-PD Art. 178-8(2) and 178-9(2)
11. IITL, Art. 118-9
12. IITL-PD, Art. 178-8(2)
13. IITL-PD, Art. 178-9(2)
14. This is calculated in accordance with Art. 63 of the Inheritance and Gift Tax Law, at a ratio of 3:2.
15. ITCL, Art. 73-2 to 73-7
16. ITCL-PD, Art. 101, 111, 119, 125-2, 113(1), 139
17. ITCL-PD, newly established Art. 138(1) - (6)
18. ITCL, Art. 73-3; ITCL-PD, Art. 125-3(2) and (3)
19. ITCL, Art. 73-5(5); ITCL-PD Art. 125-6
20. ITCL, Art. 73-7(2); ITCL-PD, Art. 125-8
21. ITCL, Art. 73-7(2); ITCL-PD, Art. 125-8
22. ITCL Art. 73-3 to 73-6; ITCL-PD Art. 125-3 to 125-5, 125.7
23. ITCL Art. 74, 75, 77, 79, 80; ITCL-PD Art. 126, 131, 135, 137, 138
24. RSTL, Art. 21(4)-(6); RSTL-PD, Art. 17
25. RSTL, Art. 21
26. RSTL, Art. 38-4; RSTL-PD, Art. 35-6
27. IITL-PD, Art. 180; CITL-PD, Art. 133
28. IITL-PD, Art. 207-2; CITL-PD, Art. 138-4
29. Presidential Decree of the National Basic Tax Law ("NBTL-PD"), Art. 63-12
30. Regulations on the Administration of International Tax Affairs, Art. 81

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