

# Korea & Taiwan update



# Speakers



**Scott Oleson**  
Tax Partner  
Deloitte Korea



**Cheli Liaw**  
Financial Services Tax Leader  
Deloitte Asia Pacific



**Angel Lou**  
Tax Partner  
Deloitte Taiwan

# Agenda

- 1 Country Tax Law Updates**
- 2 Indirect Transfer Update**
- 3 Latest on Tax Audit Activity**

# Tax Reform—Korea

## **Increase in Corporate Tax Rates**

- From 1 Jan 2026, the Korean Corporate Tax Rates have increased by 1.1% (including local surtax) for each tax bracket with top bracket now 27.5% on taxable income in excess of KRW300Bil (most companies subject to 22% or 24.2% brackets)

## **Increase in Education Tax (applicable primarily to FSI)**

- The Education Tax rate applicable to a financial or insurance company has increased from 0.5% to 1% for revenue exceeding KRW1 tril (approx. US\$700mil). Also changes to calculation of the Education Tax Base were made as follows:
  - Previously, in calculating the amount of reportable income from government bonds, losses arising from government bond transactions were not considered (i.e. losses did not offset gains). The revision allows gains and losses from government bond transactions to be offset against each other when calculating the Education Tax base.
  - Additionally, under the revision, 1) credit card service fees charged to merchants with revenue less than KRW300mil, 2) discounts provided by a credit card company, and 3) certain interest charged related to microfinance products are now excluded from the Education tax base.

## **Introduction of QDMTT**

- Korea has now enacted a Qualified Domestic Minimum Top-up Tax (QDMTT) effective for Years beginning on or after 1 Jan 2026
- First return due by 30 June 2028 (18 months after year end) with subsequent year returns due 31 Mar (15 months after year end)

## **Other Changes Specific to FSI**

- Scope of Korea Sourced Dividend Income has been revised to include income received through transactions in over-the-counter derivatives under the Capital Markets Act.
- Waiver of the deemed thin-cap rule applicable to a Korea branch of a foreign bank. Under the revision, if a Korea branch of a foreign bank is not subject to the thin-cap rule under the International Tax Coordination Tax Laws, the deemed thin-cap rule under the Corporate Income Tax Laws is no longer applicable either.
- Effective 1 Jan 2026, sales of shares on the Korea Stock Exchange (KOSPI), which were not previously taxed, will be subject to transaction tax at a rate of 0.05 percent. Also, the securities transactions tax rate for shares traded on the Korea Securities Dealers Automated Quotation (KOSDAQ) market will increase from 0.15 percent to 0.2 percent.
- New obligation to Submit Applications for Reduced Tax Rates for Non-Residents. Withholding agents were previously only required to retain applications for reduced tax rates and declarations of foreign investment entities for a period of five years. They will now also be required to submit these documents to the relevant tax office by the end of February of the year following the year.

# Pillar Two Implementation Update

## Current Adoption

- Early adopter of the Pillar Two rules—
  - IIR and UTPR from FY24
  - UTPR implementation delayed to FY25
  - **QDMTT from FY26 (New)**
- Adoption of OECD general rules and methodology but with limited actual Korean law
- Recent P2 updates expected to be formally enacted at end of 2026 (generally law changes occur only once a year at the end of the year)

## Compliance & Guidance

- Deadline for December year-ends is **30 Jun 2026** for calendar year 2024 filings
- Full GIR required unless notification of GIR filing in country with information exchange with Korea is submitted
- Local GIR filings required in **both** Korean and English but forms are essentially identical other than language differences
- Sample GIR forms have been released but details around QDMTT are limited
- Electronic filing system near completion (slightly behind original plan)

## Areas of Concern

- Difficulty for taxpayers to request Pillar Two tax rulings directly to OECD in case of any unclear interpretation coupled with lack of detailed Korean tax laws so complex areas lack certainty
- Difficulty to e-file GIR due to the request of GIR forms in both Korean and English specific file form for e-filing by NTS
- Difficulty for taxpayers to understand Pillar Two rules in the context of Korean specific issues especially since the first filing due date is near

# Taiwan

## Legislative update and tax audit trend

Tax issue	Description
<b>Pillar Two legislation and interaction with CFC regulations</b>	<ul style="list-style-type: none"><li>• QDMTT not enacted. Timing TBD.</li><li>• However, Alternative Minimum Tax rate raised from 12% to 15% as part of Taiwan's response to Pillar Two.</li><li>• CFC has been implemented in Taiwan since 2023 where the underlying subsidiary directly held by Taiwan in which its statutory CIT rate under 14%. Discussion surrounding how QDMTT implemented countries would impact Taiwan CFC low tax jurisdictions.</li></ul>
<b>Amendments to Taiwan and Singapore tax treaty</b>	<ul style="list-style-type: none"><li>• Taiwan and Singapore tax treaty was amended on 13 Feb 2026 and will become effective since 2027. Significant amendments include the introduction of capital gains article, and a preferential WHT rate of 10% could be applied to royalty, dividends and interest.</li></ul>
<b>Special tax regime applies to direct/indirect transfer of a real-estate rich company</b>	<ul style="list-style-type: none"><li>• No indirect transfer of shares regime but capital gains might derive by an offshore entity from either a direct or indirect transfer of shares in a real estate-rich Taiwanese company, tax rate at 45% or 35%, depending on the holding period.</li><li>• Real- estate rich if the FMV of its Taiwanese real property exceeds 50% of the FMV or NAV of its equity. Whitepaper suggested to change the denominator to total asset value to avoid distortions in cases where the company carries significant liabilities while no regulations have been amended accordingly thus far.</li><li>• Even the transaction falls under such regime, tax treaty might provide more favorable treatment as the threshold formula is different.</li></ul>

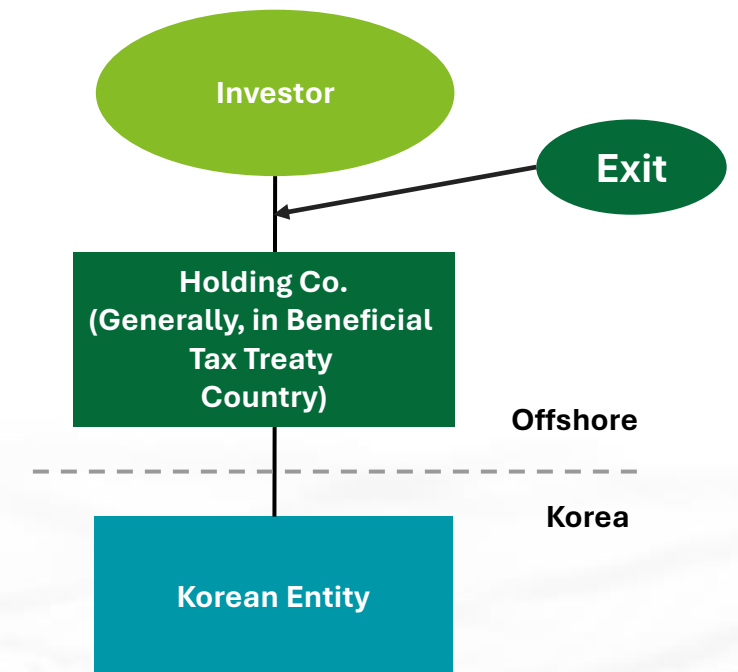
# Taxation of Indirect Transfers

## Indirect Transfer Taxation History

- Korea tax law is silent as to taxation of indirect transfers
- Only one relevant tax ruling released by the Korean tax authorities in response to a taxpayer's request with respect to the application of the substance-over-form principle to indirect share transfer cases. According to the tax ruling, an indirect transfer of shares via the sale of the shares in a foreign company **could** be treated as a direct sale of the Korean company shares subject to Korean taxation pursuant to the substance-over-form principle.
- Any determination should be made based on the facts and circumstances of each transaction.
- Few if any actual NTS challenges of indirect transfers
- It is understood that there may be a few cases of self-reported taxation of indirect transfers but not wide-spread

## Recent Tax Audit Case and Appeals

- Jeju Regional Tax office assessed taxes using the substance-over-form rule in a case of sale of offshore holding vehicle (which solely owned Korean Co. shares)
- Taxpayer appealed the District Court ruled in favor of the Buyer (i.e. Jeju District Court 2023 Guhap 5979, Judgment, 17 Dec 2024). Main points of ruling were:
  - The application of the substance-over-form principle, which significantly undermines predictability and legal stability, is not allowed
  - The Application of the substance-over-form principle cannot be used to create new taxation
  - Considering other countries' cases (e.g., China, India), for a tax authority to exercise its taxing rights on the indirect share transfer, there should be an explicit tax law
- Tax authority appealed case and Superior Court ruled in **favor of the taxpayer** in late 2025 (case ruling not yet publicly available)
- It is understood that the NTS has further appealed the case to the Korean Supreme Court with case pending



## Korean Tax Audit Trends

- While Korean tax authorities have always been active and generally audit most companies once every 4-5 years, we have seen a few trends lately as follows:
  - Tax audits starting after 3-4 years since last audit (earlier audits)
  - Unannounced tax audits (both in form of tax raid and normal audit)
  - Focus using tools such as key word searches and data analysis tools
  - More mid-sized companies (foreign companies) audited based on analytic differences such as margin decrease, fluctuations in revenue and profitability, etc.
  - New laws imposing requirements to maintain intercompany information at the Korean local level

## Focus on Private Equity

- In the last year, several private equity firms (both Korean and foreign) have been audited
  - Audits initiated via tax raid with seizing of documents/emails
  - Audits conducted by NTS division 4 (normally considered the most aggressive division of the tax authority)
  - Focus on permanent establishment
  - Focus on taxation of carried interest
  - Focus on Korean PE advisory company transfer pricing with strong belief that Korean office should be compensated using a profit split model rather than the customary cost-plus type arrangement

# Taiwan

## Other hot topics

Tax issue	Description
<b>Deemed dividend arises under a merger and the possibility to claim for tax refund</b>	<ul style="list-style-type: none"><li>• Unlike a share swap, which the shareholder may have tax-free capital gain, a deemed dividend may arise where a merger involves one entity being dissolved and the merger consideration exceeds the original investment cost. A recent well-known example in Taiwan is the merger between Shin Kong and Taishin.</li><li>• Deemed dividend taxed at 21% or lower treaty rates for foreign shareholder of the dissolved company.</li><li>• Refund opportunity exists if it can substantiate that its actual acquisition cost exceeds the original investment cost.</li></ul>
<b>Withholding tax mitigation - Deemed profit rate approach</b>	<ul style="list-style-type: none"><li>• Regarding WHT reduction applications, one possible method is the formulaic approach, under which a deemed profit rate is assessed for the specific activity performed, leading to a lower effective WHT rate.</li><li>• However, in practice, there have been cases where the tax authorities applied an industry-based profit rate irrespective of the actual nature of the activities conducted</li></ul>
<b>Tax audit trend</b>	<ul style="list-style-type: none"><li>• G&amp;A allocation from head office remains to be the focus of tax audit</li><li>• TP audits have become broader in scope with increased scrutiny on intangible assets and intercompany financing transactions</li><li>• The adjustments continue to trend upward which reflects the tax authority's stricter position to retain a greater portion of taxable profits in Taiwan</li></ul>



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