

2023 Korean Tax Reform relating to the Domestic GloBE Rules

The Ministry of Economy and Finance (MOEF) announced the Enforcement Regulation of the International Tax Coordination Law (ITCL) relating to the GloBE Rules on February 27, 2024, which is in effect as of March 22, 2024, to provide more specific guidance on the 2023 tax reform bill.

GloBE Information Return (GIR) form was also released as a part of this regulation along with the GIR notification form and the top-up tax declaration form under Income Inclusion Rule (IIR). Information required for the GIR is consistent with data points from the standardized GIR released by the OECD in July 2023.

Background

The Korean tax legislation system forms a specified hierarchy as follows where subordinate statutes are enacted under powers delegated by Acts to effectively enforce the Acts:

- Tax Act (enforced by an approval of the National Assembly)
- Enforcement Decree (enforced by an approval of the President)
- Enforcement Regulation (enforced by an approval of the Minister of the MOEF)

Detailed timeline of Korean tax legislation progress relating to the enactment of the Domestic GloBE Rules is included below under **Summary of GloBE Rules Implementation**.

Korea was one of the first few countries to codify the GloBE Rules in its domestic legislation in December 2022. Further amendments relating to the GloBE rules from the Tax Reform Proposal in July 2023 (which was in effect from December 2023) included the postponement of the effective date of UTPR to fiscal years beginning on or after January 1, 2025.

MOEF announced a tax reform on the Enforcement Decree of the ITCL relating to the GloBE Rules in December 2023 and additional amendments to the Enforcement Decree took effect from February 29, 2024, to reflect the OECD GloBE Model Rules & Commentary and February and July 2023 Administrative Guidance (AG) in details. Some of these amendments include allocation of income/loss between a Main Entity and a Permanent Establishment, investment entity tax transparency election and penalty relief relating to GIR.

The recently announced Enforcement Regulation, which is in effect as of March 22, 2024 further clarifies and mirrors the OECD GloBE Model Rules & Commentary and February and July 2023 AG. However, it does not include UTPR safe harbour from July 2023 AG nor updates from December 2023 AG such as

exception to qualified financial statements for Permanent Establishments and simplified calculation safe harbour for Non-Material Constituent Entities. The Enforcement Regulation also outlines that the Tax Authority has up to 36 months to query the appropriate use of transitional safe harbour from the GIR submission due date and the Korean entity responsible for the top-up tax has 6 months to substantiate from the receipt of such notice.

Summary of GloBE Rules Implementation in Korea

A summary of legislative updates from December 2023 is as below:

Tax Reforms	Dec 21, 2023: The National Assembly passed the amendments to ITCL relating to GloBE Rules
	Dec 31, 2023: Amendments to ITCL relating to GloBE Rules implemented
	Dec 29, 2023: Amendments to the Enforcement Decree of ITCL relating to GloBE Rules took effect
	February 29, 2024: Partial Amendments to the Enforcement Decree of ITCL relating to GloBE Rules took effect
	March 22, 2024: Amendments to the Enforcement Regulation of ITCL relating to GloBE Rules took effect
Accounting Standards Revision	Dec 13, 2023: Amendments to K-IFRS 1012 “Corporate Income Tax” issued
	Dec 13, 2023: Amendments to K-GAAP 23 “Corporate Income Tax” issued

Please note that the GloBE Rules consist of the following three principle rules, of which Korea has completed the implementation of IIR and UTPR but has not yet decided whether or when to introduce Qualified Domestic Minimum Top-up Tax (QDMTT).

	Income Inclusion Rule (IIR)	Undertaxed Payments Rule (UTPR)	Qualified Domestic Minimum Top-up Tax (QDMTT)
Implementation Status	Implemented	Implemented	Unannounced
Main Features	Requires an ultimate parent entity to bring into account its share of the income of each Constituent Entity located in a low-tax jurisdiction and taxes that income up to the minimum rate (15%)	The burden of top-up tax not in the scope of IIR or QDMTT is shared by constituent entities based in countries adopting UTPR	Allows a jurisdiction to collect top-up taxes in respect of domestic low-taxed Constituent Entities.
Effective Date	January 1, 2024	January 1, 2025	N/A
Impacted Entities	MNEs headquartered in Korea	Korean subsidiaries of inbound MNEs	N/A

What to Expect Next

The Domestic GloBE Rules are now fully enacted in Korea with detailed guidance on various topics included in the OECD GloBE Model Rules & Commentary and February and July 2023 AG. It is expected that further amendments will be announced shortly to reflect UTPR safe harbour from July 2023 AG as well as updates from December 2023 AG. We also anticipate official announcement on the introduction of QDMTT in Korea may follow. For more information, contact one of us listed below.

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