

2023 Korean Tax Reform – Amendments to the Domestic GloBE Rules

On December 21, 2023, the National Assembly passed the 2023 proposed tax reform which was announced by the Ministry of Economy and Finance (MOEF) on July 27, 2023. The Tax Reform Proposal includes amendments to the Korean rules on global minimum tax (the GloBE Rules) which was previously enacted in the International Tax Coordination Law (the “ITCL”) on December 31, 2022. The amendment of the Presidential Decree relating to the GloBE Rules is also enacted as of December 29, 2023.

Legislation Update

In December 2022, the Korean domestic GloBE Rules were enacted and added to Section 5 of the ITCL. Korea was one of the first few countries to codify the GloBE Rules in its domestic legislation and both the Income Inclusion Rule (IIR) and the Under-Taxed Payment Rule (UTPR) were to be effective for fiscal years beginning on or after January 1, 2024 at the time. This concerned MNEs headquartered in a jurisdiction with no immediate plan to implement the GloBE Rules as the taxing right would shift to its constituent entity located in Korea under the UTPR.

Amongst other key features of the Tax Reform Proposal from July 2023 (see the attached for **August 2023 NewsFlash**), the main takeaway was the postponement of the effective date of UTPR to fiscal years beginning on or after January 1, 2025 which is aligned with the GloBE Rules implementation timeline adopted by many other countries. The amendments of the ITCL also incorporates certain elements of OECD GloBE Model Rules and Commentary that were not included in the original enactment of the GloBE Rules under the ITCL in December 2022 along with parts of the Administrative Guideline (AG) published by OECD in February and July of 2023. On December 21, 2023, the National Assembly passed the 2023 proposed tax reform as proposed and the amendments in the ITCL is in effect on December 31, 2023.

In addition, on December 29, 2023, MOEF officially enacted a tax reform on the Presidential Decree of the ITCL relating to the GloBE Rules which was previously announced on November 9, 2023. Consistent with the amendments of the ITCL, the amendment of the Presidential Decree of the ITCL reflects OECD GloBE Model Rules and Commentary in details including the scope of GloBE Rules, computation of GloBE Income-Loss, computation of Covered Taxes, computation of Effective Tax Rate and Top-up Tax, Special Rules when applying the GloBE Rules, and filing and payment obligation. Certain elements of February and July 2023 AG are also incorporated in the amendment, but not in full.

Meanwhile, the Korean Accounting Standards Board issued amendments to K-IFRS and K-GAAP on December 13, 2023 in accordance with the 'International Tax Reform - Pillar 2 Model Rules' (Amendments to IAS 12) published by the International Accounting Standards Board (IASB). The amendments confirm that the enactment of the Presidential Decree of the ITCL is viewed as the substantial enactment and thereby Korean MNEs groups applying K-IFRS is required to disclose the financial impact in FY2023 (i.e., periods in which Pillar Two legislation is enacted or substantively enacted, but not yet in effect). In addition, starting

from FY2024 (i.e., periods in which Pillar Two legislation is in effect), the group is required to accrue the Top-up Tax liabilities in its financial statements including interim reporting periods. The amendments also provide a temporary mandatory relief from deferred tax accounting for the impact of the top-up tax arising from the GloBE Rules. Additional relief from accrual of Top-up Tax liabilities until the fiscal year in which the GloBE Information Return filing takes place is granted under K-GAAP. Therefore, the companies applying K-GAAP may accrue the Top-up Tax Liabilities starting from FY2026.

Summary of Updates

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

Tax Reforms	Dec 21, 2023: The National Assembly passed the amendments to the ITCL relating to GloBE Rules
	Dec 31, 2023: Amendments to the ITCL relating to GloBE Rules implemented
	Dec 29, 2023: Amendments to the Presidential Decree of the 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

It is expected that further amendments to the Presidential Decree of the ITCL containing the remainder features of the February and July 2023 AG that were not captured in the current revision (such as the Transitional UTPR Safe Harbor) along with December 2023 AG will be announced in February 2024. We also expect that the Enforcement Regulation of the ITCL relating to the GloBE Rules which will adopt the further detailed Pillar Two regulations will be announced for the first time in February 2024.

As the Presidential Decree of the tax reform that incorporates the GloBE Rules is now officially enacted, the impacted multinational entities will have to conform with the disclosure requirements on exposure arising from the GloBE Rules for the fiscal year 2023 under K-IFRS. For more information, contact one of us listed below.

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