



# South Korea

## Contacts

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## 1. Types of tax

Inheritance tax is imposed on inherited property that is transferred upon the death of an individual. Such property includes a testamentary gift, a donation becoming effective at the death of an individual and a divisional donation, which is inherited to a special party under certain circumstances stipulated in the Civil Act.

Gift tax is imposed on a transfer (including a transfer at a price significantly lower than the fair market value) of property by one person to another with no compensation. With the comprehensive taxation principle adopted in 2004, gift tax is imposed based on the economic substance of the transaction regardless of its title, form or objective.

### 1.1 Inheritance tax

#### Taxpayer

A beneficiary or a person who receives a testamentary gift (hereafter referred to as a beneficiary or testamentary donee) is obligated to pay inheritance taxes, in proportion to the properties received or to be received by each beneficiary or testamentary donee out of the total properties inherited from the decedent. When the beneficiary or testamentary donee is a for-profit corporation, the for-profit corporation is exempted from inheritance taxes. However, when the beneficiary or testamentary donee is a for-profit corporation and shareholders of the for-profit corporation include beneficiaries, testamentary donee or lineal descendants of the deceased, the shareholders (who are also the beneficiaries, testamentary donee or lineal descendants of the deceased) shall be liable for inheritance tax corresponding to his or her stake in the for-profit corporation whose inheritance tax was exempted.

Beneficiaries or testamentary donees are jointly and severally obligated to pay the inheritance tax within limits of the property received or to be received by each beneficiary or testamentary donee.

#### Scope of inherited property

The inheritance tax is assessed on all properties bequeathed by a resident and all properties within the territory of South Korea bequeathed by a nonresident.

The inherited property includes all properties that may be realized as money or having economic value and all *de facto* or *de jure* rights having asset value.

From the date of the commencement of the succession, the following assets are deemed taxable:

- Inherited property (including donated property transferred upon the death of an individual)
- Property donated within 10 years prior to the commencement date of the succession by the deceased to the beneficiary



- ▶ Property donated within five years prior to the commencement date of the succession by the deceased to a person other than the beneficiary

In case of the death of a nonresident, only those donated properties that are located within the territory of South Korea are deemed taxable.

## 1.2 Gift tax

### Taxpayer

A person who receives donated property (hereafter referred to as a donee) is obligated to pay gift taxes. Generally, if the donee is a for-profit corporation, the donee is exempt from gift tax liability.

A donee who is a nonresident on the day of the donation is obligated to pay gift taxes only in respect of that donated property located within the territory of South Korea.

In case a resident donor makes a gift of any property or asset located outside of South Korea to a nonresident donee (excluding a gift effected by the death of a donor), the resident donor is obligated to pay gift tax. However, if the donor and the donee are not treated as related parties under the relevant South Korean tax law, and gift tax (or that of similar nature) is imposed on the same property pursuant to the law of the relevant foreign country, then the donor is exempt from South Korean gift tax.

The donor is jointly and severally liable to pay the gift tax in cases where it is difficult to secure the gift tax claim, due to reasons such as when the domicile or temporary domicile of the donee is unknown, or when the donee is deemed not to have the ability to pay the gift tax even after taking measures against the donee to recover taxes in arrears. Even when the conditions for a donor's joint and several liabilities for the gift tax are not met, the donor is jointly and severally liable to pay the gift tax when the donee is a nonresident.

### Scope of tax

The gift tax covers all property donated to a resident and all property within the territory of South Korea donated to a nonresident.

The gift property refers to all property donated to a donee that may be realized as money or having economic value and all *de facto* or *de jure* rights having asset value.

The sum of economic value equal to or more than KRW10 million from the gift property donated from the single donor (including the spouse of lineal ascendant) within 10 years is also subject to gift tax.

### Nontaxed donated property

Generally, the amounts of gifts or donated properties in any of the following cases are nontaxable:

1. The value of property received as a donation from the state or local government
2. The difference between the acquisition value and market value of shares when the employee (who is also a minority shareholder) of a domestic corporation has acquired relevant shares through the employee's stockholder association
3. The value of donated property received by a political party
4. The value of donated property received by the intracompany labor welfare fund or another similar association
5. Socially accepted and recognized funds (e.g., disaster relief funds and goods, medical fees, dependents' living expenses and education expenses)
6. The value of donated property received by the Credit Guarantee Fund or other similar associations
7. The value of donated property received by the state, local government or a public organization

8. The value of transferred property by a nonprofit organization to another nonprofit organization in order to meet requirements mandated by the law
9. Insurance proceeds capped at the maximum of KRW40 million per year where an insured beneficiary is disabled

### 1.3 Real estate transfer tax

Generally, gains arising from the transfer of real estate are subject to capital gains tax rather than gift tax under the Individual Income Tax Law (IITL). However, gift tax would apply for a transfer of real estate when the transfer is deemed as a gift, despite its possible form as a sale, in accordance with the Inheritance and Gift Tax Law (IGTL). Examples of such cases are as follows:

- ▶ Properties transferred or taken over at a remarkably lower or higher price than the market value without any justifiable reasons in the common practices of transactions would be deemed as a gift.
- ▶ Properties transferred to the spouse or lineal ascendants/descendants (hereafter referred to as spouse, etc.) shall be deemed as a gift, and the value of the transferred properties would be viewed as the value of gift properties.

### 1.4 Endowment tax

This is not applicable in South Korea.

### 1.5 Transfer duty

Real estate inherited is subject to Korean acquisition tax at the rate of 3.16% (including surtaxes) of the value of the real estate. Furthermore, the real estate acquired through donation is subject to acquisition tax at the rate of 4% (including surtaxes).

### 1.6 Net wealth tax

This is not applicable in South Korea.

### 1.7 Exit (departure) tax

An exit tax is imposed on the unrealized capital gains of Korean shares held by Korean tax residents who emigrate to a foreign country on or after 1 January 2018.

The exit tax will be assessed as if the shares are sold on the day the emigration takes place. The exit tax regime applies to shares of domestic companies including, but not limited to, "land-rich companies" and to majority shareholders (which are stipulated under the IITL) who have had a domicile or place of residence in Korea for 5 years or more during the past 10 years. Shares of "land-rich companies," whose 50% or more of the assets are composed of immovable property, are subject to exit tax when majority shareholders, who own 50% or more of shares, depart Korea. Also, 50% or more of shares held by majority shareholders in companies in the business of golf courses, ski resorts and/or other real property development are also subject to exit tax if 80% or more of assets of such companies are composed of immovable property.

The person subject to exit tax is required to report the list of domestic shares held as of the day before the departure date to the district tax office. The taxpayer (or the designated tax agent) should file the capital gains tax return within three months following the month of departure. The tax rate is 20% (22% including local income tax) on capital gains less than or equal to KRW300 million, and 25% (27.5% including local income tax) on gains in excess of KRW300 million.

To prevent double taxation, those subject to the exit tax will be able to claim a foreign tax credit for tax paid in a foreign country in case of an actual share transfer by submitting the claim for tax credit application to the district tax office within three months from the actual transfer date; Under the tax reform bill issued on 8 January 2019, however, the three-month period could be extended to two years for the share transfer taken place on or after 1 January 2019. An additional tax credit may be claimed in the same manner as a claim for a foreign tax credit if the share price on the actual transfer date is lower than at the time the exit tax was levied. In addition, if certain requirements are met, such as pledging collateral security for tax payment and appointing a tax agent, the tax payment can be postponed

for 5 years (10 years for those studying abroad). The exit tax paid will be refunded if the taxpayer re-enters Korea and becomes a resident of Korea.

## 2. Who is liable?

### 2.1 Residency

Residency of a decedent is determined pursuant to the IITL. Generally, an individual who holds domicile or has held temporary domicile in South Korea for 183 days or longer is considered a tax resident of South Korea, while an individual who is not a tax resident shall be treated as a nonresident of South Korea.

## Inheritance tax

Residency determines the scope of reportable inherited properties and allowable deductions. Inheritance tax is assessed on all properties bequeathed by a resident and all properties within the territory of South Korea bequeathed by a nonresident. More expenses and deductions are permitted to residents than to nonresidents.

## Gift tax

Gift tax applies to all property donated to a resident and all property within the territory of South Korea donated to a nonresident. In a case where a nonresident donee who is not a related party with a donor obliged to pay gift tax in his or her resident country, the said donee is exempt from Korean gift tax.

### 2.2 Domicile

#### Inheritance tax

Inheritance tax shall be levied by the tax office having jurisdiction over the place of the domicile of the decedent. In cases where the place of the commencement of succession is overseas, inheritance tax shall be levied by the tax office having jurisdiction over the location of the property that is within the territory of South Korea. In cases where the inherited property is within two or more jurisdictions, inheritance tax shall be levied by the tax office having jurisdiction over the location of the main property.

#### Gift tax

Gift tax shall be levied by the tax office having jurisdiction over the place of the domicile of the donee. In cases where the donee is a nonresident or the domicile or temporary domicile of the donee is unknown, gift tax shall be levied by the tax office having jurisdiction over the place of the domicile of the donor.

## 3. Rates

### 3.1 Inheritance tax

Inheritance tax is calculated by applying the marginal tax rates, ranging between 10% and 50%, to the tax base, as in the following table:

Tax base	Tax rates
KRW100 million or less	10%
Above KRW100 million to KRW500 million	KRW10 million + (20% x the excess above KRW100 million)
Above KRW500 million to KRW1 billion	KRW90 million + (30% x the excess above KRW500 million)
Above KRW1 billion to KRW3 billion	KRW240 million + (40% x the excess above KRW1 billion)
More than KRW3 billion	KRW1.04 billion + (50% x the excess above KRW3 billion)

### Generation-skipping inheritance tax

When the beneficiary or testamentary donee is a lineal descendant other than a son or daughter of the deceased, a surtax of 30% is levied in addition to inheritance tax. In cases where the beneficiary or testamentary donee is a minor and lineal descendant other than a son or daughter of the deceased, a surtax of 40% is levied when the total value of properties received or to be received exceeds KRW2 billion.

### Tax credits

The following inheritance tax credits are available mainly for the purpose of avoiding double taxation:

1. *Gift tax credit*: In case the inherited property includes donated property for the purpose of calculating the inheritance tax base, gift tax computed from the donated property is available as a tax credit.
2. *Foreign tax credit*: If inheritance tax was paid on the inherited property in a foreign country, the inheritance tax paid in the foreign country is available as a tax credit.
3. *Tax credit for short-time re-succession*: In cases where inheritance recommences due to the death of a beneficiary within 10 years of the commencement of the earlier inheritance, the phase-out credit is available for the second-generation beneficiary, as in the following table:

Re-succession period	Credit percentage
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. *Tax credit for filing on time*: A 3% tax credit is available for those taxpayers filing tax returns on time (the 5% tax credit rule terminated on a sunset date of 31 December 2018).

## 3.2 Gift tax

Gift tax is calculated by applying the marginal tax rates, ranging between 10% and 50%, to the tax base, as in the following table:

Tax base	Tax rates
KRW100 million or less	10%
Above KRW100 million to KRW500 million	KRW10 million + (20% x the excess above KRW100 million)
Above KRW500 million to KRW1 billion	KRW90 million + (30% x the excess above KRW500 million)
Above KRW1 billion to KRW3 billion	KRW240 million + (40% x the excess above KRW1 billion)
Above KRW3 billion	KRW1.04 billion + (50% x the excess above KRW3 billion)

### Generation-skipping gift tax

When the donee is a lineal descendant other than a son or daughter of the donor, a surtax of 30% is levied in addition to gift tax. In cases where the donee is a minor and is the lineal descendant other than a son or daughter of the donor, a surtax of 40% is levied when the total value of properties received or to be received exceeds KRW2 billion.

### Tax credits

The following gift tax credits are available mainly for the purpose of avoiding double taxation:

1. *Credit for previously paid gift taxes:* The amount of gift tax paid previously or to be paid with respect to the value of property received from the same donor during the past 10 years (aggregated amount of the values of donated properties if there are more than two donations) can be claimed as a tax credit if the value of property received previously is added to the taxable amount of gift tax.
2. *Foreign tax credit:* A foreign tax credit is granted for the amount paid on the donated property in a foreign country as a gift tax.
3. *Tax credit for filing on time:* A 3% tax credit is available for those taxpayers filing tax returns on time (the 5% tax credit rule terminated on a sunset date of 31 December 2018).

## 4. Exemptions and reliefs

### 4.1 Inheritance tax

#### Inheritance deductions

Among the various deductions stated below, only KRW200 million of the basic deduction is applied if the deceased is a nonresident, while any of the itemized deductions are applied to the resident deceased on top of basic deduction.

#### Itemized deductions

1. One of the following can be deducted from the taxable amount if the inheritance falls under any of the following categories:
  - Inherited family business (a small-to-medium-sized business that has been run by the deceased for 10 years or longer and meets certain conditions) – the amount of deduction is the value of an inherited family business but would be capped at: (i) KRW20 billion for a business run for 10 years or longer but less than 20 years, (ii) KRW30 billion for a business run for 20 years or longer but less than 30 years, and (iii) KRW50 billion for a business run for 30 years or longer.

- ▶ Inherited farming business (including livestock-raising, fishing and forest management) – the value of the inherited farming business, capped at the maximum of KRW1.5 billion.
2. The actual amount inherited by the spouse is deductible. The amount of spousal deduction is allowed between the minimum of KRW500 million and the maximum of KRW3 billion.
  3. If the beneficiary falls under any of the following categories, the sum of amounts allowed for each category is added together and deducted from the taxable amount:
    - ▶ With respect to a child of the deceased, KRW50 million
    - ▶ With respect to a minor (excluding the spouse) who is either a beneficiary or a family member of the deceased, KRW10 million multiplied by the number of years until the minor reaches 19 years of age
    - ▶ With respect to a beneficiary or a family member of the deceased (excluding the spouse) who is 65 years old or older, KRW50 million
    - ▶ With respect to a disabled person (including a spouse) who is either a beneficiary or a family member of the deceased, KRW10 million multiplied by the number of expected remaining years as announced by Statistics Korea
    - ▶ With respect to the beneficiary satisfying all of the following conditions, 80% of the net value of the inherited house (including the value of the land attached to the house) less relevant debt, but the deduction amount would be capped at the maximum of KRW500 million:
      - (i) Beneficiary is a lineal descendant of the deceased and had resided in the same house with the deceased for 10 years or longer (excluding the period when the beneficiary was a minor) immediately before the commencement of the inheritance
      - (ii) Beneficiary and the deceased formed a single household that owned only one house, as prescribed by the IITL, for 10 years or longer immediately before the commencement of the inheritance
      - (iii) Beneficiary does not own a house as of the date of the commencement of the inheritance

### Lump-sum deduction option

The taxpayer has an option to deduct either the sum of a basic deduction and (34) (stated in Section 4.1) or a lump-sum amount of KRW500 million, whichever is greater. If the deduction option is not reported, the deductible amount is fixed at KRW500 million. In case the spouse alone receives the inheritance, a lump-sum option is not available.

### Administrative expense deductions

In cases where the deceased is a resident, the following expenses relating to the deceased or the inherited property as of the commencement date of the inheritance are subtracted from the value of the inherited property:

- ▶ Public imposts, including taxes and public utility expenses transferred to the beneficiary that were due to the deceased as of the date of the commencement of the inheritance
- ▶ Funeral expenses based on actual costs incurred from the date of death through the date of the funeral:
  - ▶ KRW5 million, if the actual cost incurred is KRW5 million or below
  - ▶ Actual amount, if the actual cost incurred is above KRW5 million to KRW10 million
  - ▶ KRW10 million, if the actual cost incurred exceeds KRW10 million
  - ▶ Actual burial chamber usage fee incurred up to KRW5 million, if any
- ▶ Debts left by the deceased for which the beneficiary is able to prove that he or she is responsible to settle upon the commencement of the inheritance

In cases where the deceased is a nonresident, the following expenses are deducted from the value of the inherited property:

- ▶ Public imposts, including taxes and public utility expenses relating to the inherited property
- ▶ Debts secured with liens, pledges, right to lease on a deposit basis, right of lease, right to property transferred for security or mortgages that are related to the inherited property



- ▶ Debts and public imposts, confirmed in accordance with books and records, if the nonresident had business place(s) within the territory of South Korea at the time of his death

### Deductions for financial property

If the inherited property includes a value of net financial property, which is a value obtained by deducting a financial debt from the value of financial property, the following amount capped at the maximum of KRW200 million would be deducted from the taxable amount of inheritance taxes:

1. When the value of net financial property exceeds KRW20 million: 20% of the value of net financial property or KRW20 million, whichever is larger
2. When the value of net financial property does not exceed KRW20 million: the value of the relevant net financial property

Financial property includes deposits, installment savings, trusts, stocks, bonds, equity shares, investment in capital and other marketable securities that are generally handled by financial institutions.

## 4.2 Gift tax

### Gift deductions

Only a resident donee is subject to the Itemized deductions.

### Itemized deductions

In cases where a resident donee receives donated property from any of the following persons, each of the following amounts is deductible from the taxable amount of a gift. However, the sum of deductions already taken within 10 years prior to the relevant donation and the deduction to be taken for the relevant donation during the current year shall not exceed the threshold amount stated in the following:

- ▶ Spouse: KRW600 million
- ▶ Lineal ascendant: KRW50 million (KRW20 million if the donee is a minor)
- ▶ Lineal descendant: KRW50 million
- ▶ Relative other than a spouse or a lineal family member: KRW10 million

## 5. Filing procedures

### 5.1 Inheritance tax

#### Tax returns and payment

A beneficiary or a testamentary donee having an inheritance tax payment obligation must file a tax return within six months of the last day of the month in which the inheritance commenced, together with detailed supporting documentation that can prove the type, quantity, appraised value, distribution of property and all types of deductions of the inherited property necessary for the calculation of the inheritance tax base.

When the inheritance tax to be paid exceeds KRW10 million, a part of the total taxes due may be paid in installments within two months after the payment due date, unless payment by annual installments is permitted. When the inheritance tax to be paid exceeds KRW20 million, the head of the district tax office may permit payment by annual installments upon filing of an application. In such cases, the taxpayer shall provide a security.

The head of the district tax office may permit in-kind payment of inheritance tax (limited to real estate and marketable securities but excluding shares and equities) upon filing of an application by the taxpayer, if all of the following conditions are met:

- ▶ The value of real estate and marketable securities (excluding shares and equities) inherited accounts for more than 50% of the inherited property received.
- ▶ The amount of the inheritance tax is in excess of KRW20 million.
- ▶ The amount of the inheritance tax is in excess of the value of the inherited financial assets.

#### Determination by tax office

The district tax office may revisit the inheritance tax returns filed and assess additional taxes within nine months from the filing due date of the tax return.

## 5.2 Gift tax

#### Tax returns and payment

A donee having a gift tax liability must file a tax return within three months of the last day of the month in which the donated property was received, together with detailed supporting documentation.

When the gift tax to be paid exceeds KRW10 million, a part of the total due may be paid in installments within two months after the payment due date, unless payment by annual installments is permitted. When the gift tax to be paid is in excess of KRW20 million, the head of the district tax office may permit payment by annual installments upon filing of an application. In such cases, the taxpayer shall provide a security.

#### Determination by tax office

The district tax office may revisit the gift tax returns filed and assess additional taxes within six months from the filing due date of the tax return.

## 6. Assessments and valuations

### 6.1 Inheritance tax

In principle, the value of inherited property is assessed based on its current market value (e.g., arm's-length price, appraised value) on the commencement date of inheritance. The following methods of valuation are applied when the market value is not available:

- ▶ Land: publicly notified individual land price in accordance with the Public Notice of Values and Appraisal of Real Estate Act
- ▶ Buildings: the value determined and published by the Commissioner of the National Tax Service (NTS) every year
- ▶ Listed stocks: four-month average closing market price (two months prior to and two months after the valuation date)
- ▶ Non-listed stocks: the value of unlisted shares shall be calculated based on the weighted average of the adjusted net income value per share and the adjusted net asset value per share in the proportion of three to two (exceptions may apply). Please see below for the definition of net asset value and net income value for IGTL valuation purposes. If the value of non-listed stock, computed based on the method prescribed under the IGTL, is less than 80% of the adjusted net asset value, 80% of the adjusted net asset value would be deemed as the value of the non-listed stock.
  - ▶ Net asset value = total net assets on the valuation date after adjustments (including goodwill computed under the IGTL)

- ▶ Net income value = weighted average adjusted after-tax net income during the preceding three years/discount rate (currently, 10%)

Different weighted ratios may apply for companies that own certain percentages of real estate among the total assets.

## 6.2 Gift tax

The same rules described in Section 6.1 apply to assessments and valuations for gift tax purposes.

# 7. Trusts, foundations and private purpose funds

## 7.1 Inheritance tax

Pension benefits received from a private pension due to the death of the policyholder shall be regarded as an inherited property. Assets held in a trust shall be regarded as an inherited property upon death of the grantor.

## 7.2 Gift tax

If the beneficiary of a private pension and the payer of contributions are different, the private pension benefits received shall be deemed as a property donated to the beneficiary.

# 8. Grants

Inherited and donated property contributed to a person operating a business for religious, charitable, academic or other purposes of public good (hereinafter referred to as a public service corporation) shall not be subject to inheritance or gift tax. In cases where all or part of the benefits arising from inherited or donated property, which have been excluded from the taxable amount of inheritance or gift tax, are not used for purposes of the public good in an appropriate manner, inheritance and gift tax shall be immediately levied on the excluded amount.

## 8.1 Inheritance tax

Property contributed by the deceased or the beneficiary to a person operating a public service corporation shall not be included in the taxable amount of inheritance tax if the contribution is made within six months from the commencement of inheritance. However, when shares with voting rights of a domestic corporation are contributed to a public service corporation and the shares contributed, together with those held by the public service corporation, etc., exceed 5% of the total number of the shares, the excess shall be added to the taxable amount of inheritance tax. The threshold (i.e., 5% of the total number of the shares) may increase to 10% or to 20% if the contribution is made to qualified public service corporations as prescribed by the Presidential Decree of the IGTL.

In cases where property is not included in the taxable amount of inheritance tax and all or part of the benefits arising from such property belong to the beneficiary or a person(s) having a special relationship with the beneficiary, inheritance tax shall be immediately levied on the amount.

Property contributed by the deceased or the beneficiary to a public service corporation via a public trust pursuant to the Trust Act (i.e., a trust for religious, charitable, academic or other purposes of public good) shall not be included in the taxable amount of inheritance taxes.

## 8.2 Gift tax

Donated property contributed to a public service corporation shall not be included in the taxable amount of gift tax. However, when shares with voting rights of a domestic corporation are contributed to a public service corporation and the shares contributed, together with those held by the public service corporation, etc., exceed 5% of the total number of the shares, the excess shall be added to the taxable amount of gift tax. The threshold (i.e., 5% of the total number of the shares) may increase to 10% or to 20% if the contribution is made to qualified public service corporations as prescribed by the Presidential Decree of the IGTL.

In cases where property is not included in the taxable amount of gift tax and all or part of the benefits arising from such property are not being operated pursuant to the Presidential Decree of the IGTL (e.g., the property is being used for purposes other than for the public good), gift tax shall be immediately levied on the amount.

Property contributed by the donor to a public service corporation via a public trust pursuant to the Trust Act (i.e., through a trust for religious, charitable or academic purposes, or for purposes other than for the public good) shall not be included in the taxable amount of gift taxes.

## 9. Life insurance

### 9.1 Inheritance tax

When the beneficiary receives insurance proceeds from life or accident insurance due to the death of the policyholder, insurance proceeds shall be regarded as an inherited property if: (i) the policyholder is the deceased, or (ii) the deceased has paid the insurance premium even when the deceased is not the policyholder.

### 9.2 Gift tax

If the beneficiary of insurance proceeds and the payer of premiums are different in a life insurance or nonlife insurance policy, the insurance money shall be deemed to be donated to the beneficiary as of the date when the incident triggering the payment of insurance proceeds happens (including the expiration of the insurance policy).

## 10. Civil law on succession

This is not applicable for individuals in South Korea.

## 11. Estate tax treaties

South Korea has not entered into any estate tax treaties.