



Proposed Amendments to the Enforcement Decree of the Tax Law (International Taxation)

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On January 16, 2026, the proposed amendments to the Enforcement Decree of the tax laws revised in 2025 (the “Proposed Enforcement Decree”) were announced. The Proposed Enforcement Decree will undergo a legislative notice period until February 5, 2026, and is expected to be promulgated and enforced in February 2026.

The key amendments in the area of international taxation and their implications are summarized below.

1. Key Amendments

(a) Detailed Rules Following the Introduction of the Domestic Top-up Tax¹

Through this amendment to the Enforcement Decree, detailed implementing rules relating to the Domestic Top-up Tax under the Global Minimum Tax (Pillar Two) regime are being introduced.

Specifically, covered taxes that are recognized for accounting purposes—such as taxes recognized by an overseas head office on the income of its Korean branch, or taxes recognized by a foreign parent company on dividends received from a Korean constituent entity—will be excluded from adjusted covered taxes when calculating the Korean Domestic Top-up Tax.

In addition, income attributable to a permanent establishment that is not taxed in any jurisdiction (so-called “Stateless PE”) will be included within the scope of the Domestic Top-up Tax.

Furthermore, detailed standards are introduced for the statutory allocation method used to allocate the Domestic Top-up Tax among Korean constituent entities.² Under the Proposed Enforcement Decree, the statutory allocation method generally allocates the Domestic Top-up Tax based on each Korean constituent entity’s Global Minimum Tax income.

The Decree also separately provides allocation rules for situations where there is no net Global Minimum Tax income of

the multinational enterprise group for the relevant fiscal year, but a current-year Domestic Top-up Tax adjustment arises due to reasons such as the recalculation of the effective tax rate or Domestic Top-up Tax for prior fiscal years. In such cases, for example, the allocation may be based on the Global Minimum Tax income of each Korean constituent entity in the prior fiscal year in which the relevant adjustment arose.

If finalized, these amendments will apply to fiscal years beginning on or after January 1, 2026.

(b) Extension of the Transitional Safe Harbour Period

In accordance with the recently announced OECD Global Minimum Tax agreement (the “Side-by-Side Package”), the transitional safe harbour period has been extended by one year.

As a result, even for fiscal years beginning in 2027, multinational groups will be exempt from the Global Minimum Tax Top-up Tax if the simplified effective tax rate is at least 17%.

(c) Expansion of the Scope of Partial Tax Audits Related to APA Applications

As a general rule, the filing of an Advance Pricing Arrangement (APA) application does not, in itself, result in the suspension of a tax audit. However, if an APA application is filed before the advance notice of a tax audit is issued, a transfer pricing audit with respect to international transactions covered by the APA for the relevant APA period may be deferred.

The Proposed Enforcement Decree explicitly provides that where an APA application is cancelled, withdrawn, or otherwise discontinued after filing, the tax authorities may conduct a partial tax audit to verify the contents of the APA application. This amendment is intended to prevent the deferral of transfer pricing audits due to APA applications from being unreasonably prolonged.

If finalized, this amendment will apply to tax audits initiated on or after the effective date of the Enforcement Decree.

(d) Specification of Administrative Fines for Failure to Submit Status Reports of Liaison Offices of Foreign Corporations

Under the 2025 amendments to the Corporate Income Tax Act, effective from 2026, a foreign corporation’s liaison office may be subject to an administrative fine of up to KRW 10 million if it fails to submit, or submits falsely, a status report (including basic information on the liaison office, details of transactions with the foreign head office, and the status of other domestic branches), and fails to comply with a corrective order issued by the tax authorities.

The Proposed Enforcement Decree specifies the amount of the administrative fine within the statutory range as KRW 5 million.

If finalized, this amendment will apply to failures to comply with the filing obligation occurring on or after January 1, 2026.

(e) Updated Criteria for Deemed Permanent Establishment (PE)

The criteria for establishing a deemed PE via an agent have been updated to align with international standards. Existing classifications for those agents who habitually store and deliver assets for a foreign corporation or those who manage insurance premiums and risks in Korea remain in place. However, the rule for independent agents has been amended such that an agent creates a deemed PE if they work "exclusively or almost exclusively for related parties." This specific language replaces the previous "mainly for a specific foreign corporation" standard, tightening the scope of what constitutes an independent agent.

2. Implications

The Proposed Enforcement Decree further enhances the precision of the Global Minimum Tax regime by setting out detailed rules for the Domestic Top-up Tax, while the one-year extension of the transitional safe harbour provides meaningful relief from compliance obligations. Furthermore, the introduction of partial tax audits in cases where APA applications are cancelled underscores the tax authorities' intention to deter abuse of the tax audit deferral framework.

Companies facing Global Minimum Tax issues or currently engaged in APA procedures should proactively assess potential tax risks arising from the implementation of the Enforcement Decree and prepare accordingly in consultation with tax professionals.

¹ Articles 125-3 through 125-8 of the Enforcement Decree of the Law for the Coordination of International Tax Affairs (LCITA)

² A multinational enterprise group may choose between the statutory allocation method and the designated allocation method (a method whereby the allocation of domestic top-up tax is made by all Korean constituent enterprises of the relevant multinational enterprise group by mutual agreement to one or more Korean constituent enterprises designated by the reporting constituent enterprise) to allocate the domestic top up tax to each domestic constituent enterprise (Article 73-7(2) of the LCITA).

[\[Korean version\]](#) 2025년 세법개정 후속 시행령 개정안(국제조세 분야)

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