



# Korean regulatory updates

March-May 2021

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# Executive summary

## Editorial

### Our new regulatory updates for March and May cover 2 hot topics for business leaders: ESG and data protection.

Early 2021, the Financial Services Commission has initiated a mandatory disclosure of ESG information, to be implemented in stages for listed companies during the period 2025-2030. This requirement is part of the recent plan by the regulator to improve corporate disclosure system in Korea.

Regarding data protection, business leaders have been pleased to hear about the expected adequacy between Korean and European regulations on data protection. The official decision, expected by end of the year, will ease the transfer of data between Korea and European Union countries.

Other topics covered by our letter are more of a technical nature, covering tax, payroll and auditor's appointment committee.

We hope you enjoy reading this regulatory update.



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270m

강남대로  
90  
100m

60

# Tax updates

## Recent amendments

### Uncollectible foreign debts deductible as bad debts

Uncollectible foreign debts have been added to the list of deductible bad debts under Article 19-2 of the Presidential Decree of the Corporate Income Tax Law (CITL).

According to the government's bill, receivables from overseas customers for the sale of goods or provision of services can be deducted if they are confirmed as uncollectible by the Korea Trade Insurance Corporation for particular reasons that must be specified in the CITL's compliance rules. This reform is intended to reduce the tax burden on taxpayers who have uncollectible overseas debts.

On January 7, 2021, the Ministry of Economy and Finance confirmed the subsequent enforcement decree of the 2020 revised tax law and announced the legislation.

\*Enforcement date: February 17, 2021.

### Domestic-source dividends for the non-residents

Financial investment income is included in the current Personal Income Tax Law (PITL), which was amended to encourage financial investment and have fair taxes on financial investment goods. The word "benefit prescribed by Presidential Decree" means the following interests under Article 119-2 of the PITL:

- Income arising from the transfer of shares and equity interest; profits arising from the transfer of aggregate investment securities on capital markets and financial investment, which aims to track changes in the index based solely on the price of shares traded in the stock market; derivative combined securities which are listed and traded on the securities market in conjunction with changes in prices, interest rates, indicators, units, etc. of basic assets.
- Profit generated by repurchase, transfer, and termination and dissolution of collective investment instruments.

\*Enforcement Date: February 17, 2021

### New tax credit recapture for employment increase

Under the amended Special Tax Treatment & Control law, one year grace period will be applied for tax credit recapture. If the number of full-time employees in the current year increases compared to the prior year, a corporation can enjoy tax credit for the increased number of the employees.

However, under the recapture rule, if the company which claimed the tax credit in the preceding year reduces the number of the employees in the current year, it should pay unpaid tax due to the preceding year's tax credit in the current year. Furthermore, it could not use the previous year's tax credit for the remaining years.

The recapture rule will be waived for one year for companies which claimed the tax credit in 2019 because many businesses have been severely impacted by COVID-19. Even though the number of the employees decreased in 2020, the recapture rule shall not apply to FY 2020. Also, the companies that are related to those circumstances are allowed to utilize the tax credit claimed for 2019 in 2021 if their employment in 2021 is recovered to the level of 2019.

Applicable from tax returns with the tax base for the tax year to which December 31, 2020 belongs.

\*Enforcement Date: March 16, 2021

# Tax updates

## Recent amendments

### Detailed regulations related to the method of calculating the market price of listed stocks

Article 89 of the Enforcement Decree of the CITL is amended in cases where listed stocks are traded over-the-counter or by the method of mass trading prescribed by the enforcement regulations, the closing price of the trading day shall be the market price, and 20% of the closing price for the management right transfer transaction prescribed by the Enforcement Decree is added to the market price.

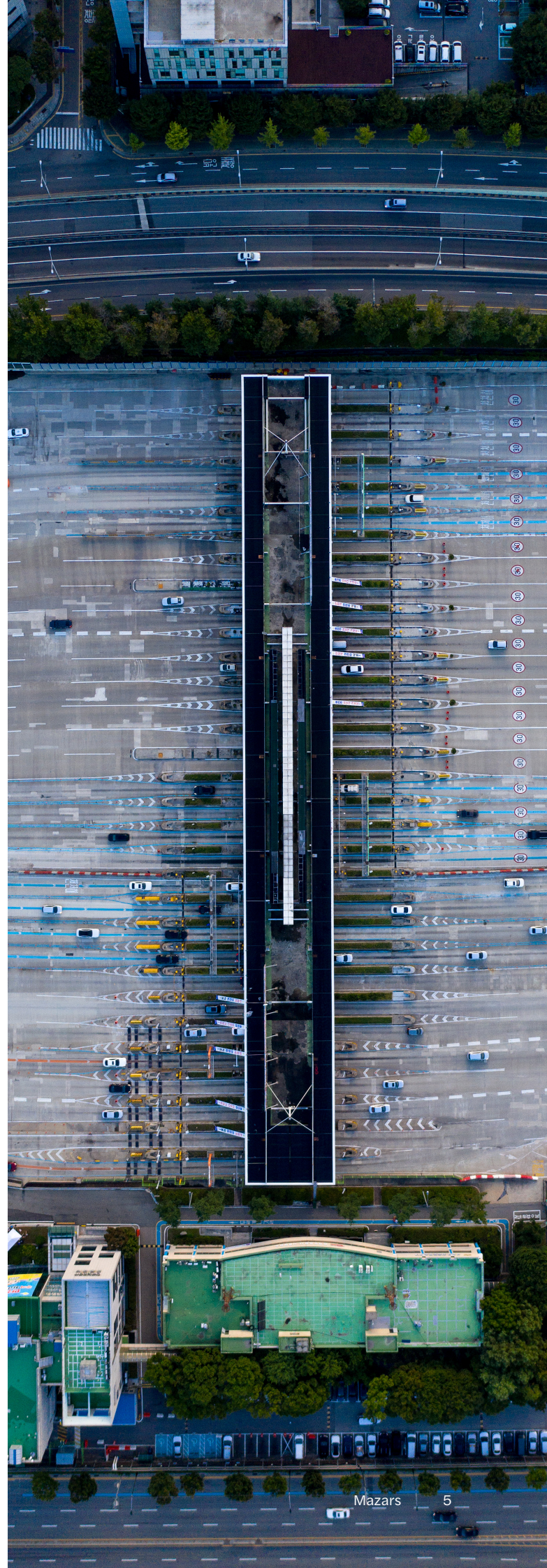
The Decree specifies the regulations mandated in the enforcement decree as follows.

- Method of mass trading prescribed by the enforcement regulations: a trading method in which trading is established only when the requirements for a certain quantity or a certain amount are satisfied according to the stock market business regulations of the exchange.
- Transactions for transfer of management rights prescribed by the Enforcement Decree: transactions in which the largest shareholders under the Inheritance and Gift Tax Law (IGTL) change, or in transactions between the largest shareholders, etc. under the IGTL, in which the ownership rate is changed by 1% or more.

\*Applicable for transactions occurring after the enforcement date, i.e., February 17, 2021

### Tax treaty between Cambodia and Korea

The treaty signed in November 2019 entered into force on January 29, 2021.



# Corporate disclosure

## Reducing burden

### Easing rules for the Auditor's Appointment Committee

Under the revised External Audit Act, stock-listed corporations and large non-listed stock companies (i.e., with a total assets of KRW 100 billion or more at the end of the previous business year), with no audit committee are required to appoint external auditors by forming an Auditor Appointment Committee consisting of at least 7 persons according to the law.

In order to alleviate the burden on small and medium-sized enterprises, the Enforcement Decree of the External Audit Act has been amended on January 12, 2021 as follows in connection with the composition of the Auditor Appointment Committee.

- Reduced the minimum quorum from 7 to 5<sup>1</sup> to ease the burden on the composition of the auditor appointment committee.
- Similar as for institutional investor members, expanding the membership for creditor financial companies to include non-executive employees.

This amendment can be applied from the time the auditor appointment committee is formed for the appointment of auditors in 2021.

### Improvement Plan for the Corporate Disclosure System, including ESG

On 14 January 2021, the Financial Services Commission (FSC) has announced its "Comprehensive Improvement Plan for the Corporate Disclosure System." These measures aim at reducing the burden of corporate disclosure, strengthening investor protection, and establishing the basis for responsible ESG investment.

Main contents of this improvement plan are the following:

- Enhancement of investors' convenience in using public information.
  - Reorganize the business report system and disclosure items to make it easier for general investors to understand.
  - Maintenance of the Financial Supervisory Service Electronic Disclosure System (DART) system for easy use.
- Reasonable reduction in the burden of disclosure on companies.
  - Reorganization of quarterly report form centered on core information (40% reduction in disclosure items).
  - Expand target companies and omitted items to reduce the burden of disclosure for small-scale companies.
  - Activation of electronic issuance of investment prospects, preparation of standards for exemption of settlement documents for small size of public offering.
- Establish an institutional basis for revitalizing ESG responsible investment.
  - Promote self-disclosure of ESG information and make it mandatory in stages.
  - Evaluate the performance of the stewardship code and review the revision.
  - Promote disclosure of information on voting rights advisors.
- Activation of disclosure of sustainability management reports: activation of voluntary disclosure (~2025) → Mandatory for companies over a certain size (2025~2030) → Mandatory for all KOSPI listed companies (2030~).
- Disclosed blind spot reduction and sanctions maintenance.
  - Reinforce disclosures related to technology exceptions-listed corporations, domestically-listed offshore holding companies, and permanent bonds.
  - Improve imposition targets and imposition standards for penalties for non-submission of securities report.

1. Consists of 5 or more of the internal members (within 1 auditor and 2 outside directors) and external members (1 employee of the company's institutional investor, 1 majority shareholder except for related parties, management or institutional investors, 1 employee of the company's credit finance company).

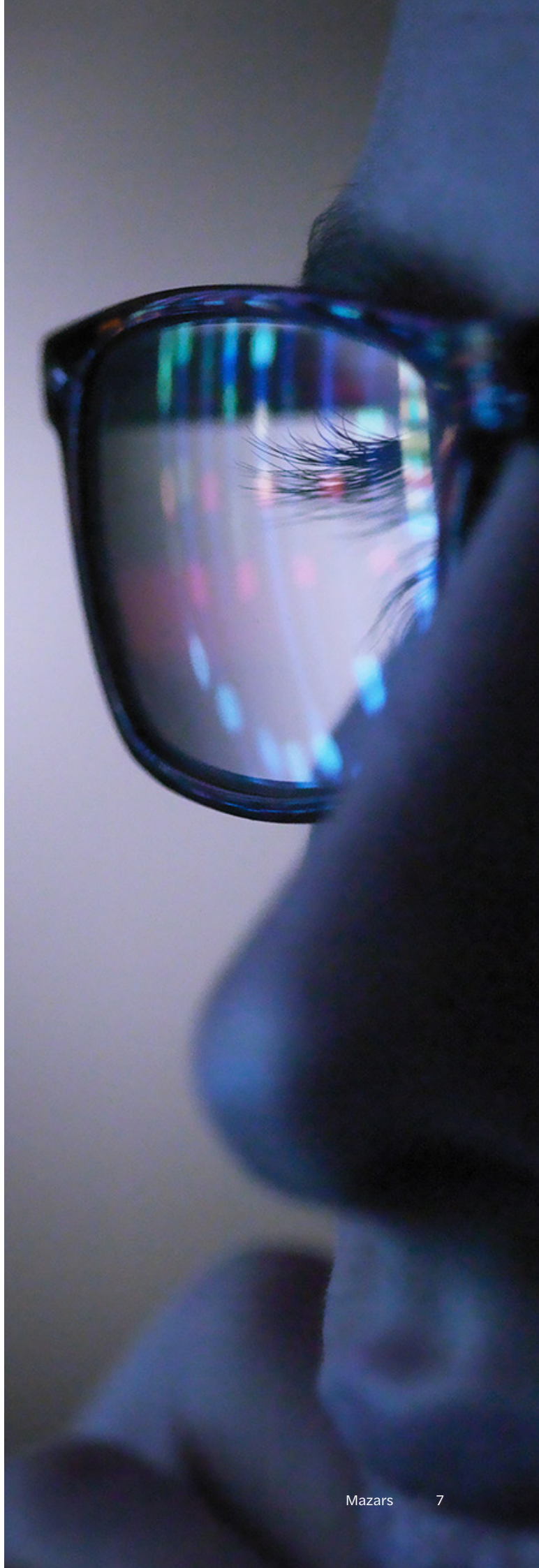
# Data protection

## Adequacy decision

### **Adequacy decision for the Republic of Korea under the European General Data Protection Regulation (GDPR)**

On March 30, 2021, the Personal Information Protection Commission (PIPC) has announced that its discussion with the EU have been successfully concluded regarding the adequacy between the Korean privacy requirements and European General Data Protection Regulation (GDPR).

The official decision is expected to be released by the end of the year. As a consequence of this expected grant of adequacy, it will be possible to transfer easily data between Korea and the European Union.



# HR & payroll

## Flexible working system

### New flexible working system with a unit period into six months

As explained in our previous Regulatory Update (issue January-February 2021), the revision of the Labor Standard Act, effective on April 6, 2021, increases the flexibility of working hour management by extending the unit period from the current three months to a maximum of six months and relaxing the requirement of pre-determining working hours.

Also, workers' health damage and loss of wages according to an extension of the unit period can be prevented by regulating an 11 hour continuous break system between working days and mandatory notification of wage protection plan.

This law amendment is effective from April 6, 2021 for businesses with more than 50 employees and effective from July 1, 2021 for businesses with more than five and less than 50 employees.

The elastic (flexible) work system sets the average working hours within 40 hours per week of legal working hours by extending working hours during periods of heavy work and shortening working hours during other periods.

A flexible work system with a unit period exceeding 3 months and less than 6 months has been newly added:

Flexible work system	Unit period of 2 weeks	Unit period from 3 weeks to 3 months	Unit period from 3 months to 6 months (new)
Eligibility	Every employee or certain business, industries <ul style="list-style-type: none"> <li>Exception               <ul style="list-style-type: none"> <li>- 15 to 18 years old, under 15 years old with employment permit</li> <li>- Pregnant workers</li> </ul> </li> </ul>		
Set expiration date	No obligation but preferable to regulate in employment rule	Written agreement between the company and employee representatives	
Working hours agreement		Written agreement with daily working hours	Written agreement with weekly working hours, daily working hours must be notified two weeks before the start of work. <ul style="list-style-type: none"> <li>Mandatory to have 11 consecutive hours of rest between working days.</li> </ul>
Work limitation (maximum working hour per week)	60 hours (48H+overtime 12H) <ul style="list-style-type: none"> <li>Work hours in any particular week shall not exceed 48 hours.</li> </ul>	64 hours (52H+overtime 12H) <ul style="list-style-type: none"> <li>Work hours in any particular week or in any particular day shall not exceed 52 hours or 12 hours respectively.</li> </ul>	
Remarks	<ul style="list-style-type: none"> <li>Employer must report workers' wage preservation plan to MOEL.</li> <li>If the average worked hours per week for a unit period exceed more than 40 hours, or working beyond the limits of each unit, the employer must pay overtime allowance.</li> <li>Hours per week that changes from overtime to basic working hours cannot exceed 12 hours.</li> </ul>		



# Key figures

## Individual tax rate

Aggregate income taxation standard	Tax rate (from 2019 <sup>1</sup> )
Below KRW 12 million	6.6%
KRW 12 million ~ below KRW 46 million	16.5%
KRW 46 million ~ below KRW 88 million	26.4%
KRW 88 million ~ below KRW 150 million	38.5%
KRW 150 million ~ below KRW 300 million	41.8%
KRW 300 million ~ below KRW 500 million	44%
KRW 500 million and below KRW 1 billion	46.2 %
Above KRW 1 billion	49.5%

## Corporate tax rate

Taxable income	Applicable rate
Amount below KRW 200 million	11%
Amount exceeding KRW 200 million and below KRW 20 billion	22%
Amount exceeding KRW 20 billion and below KRW 300 billion	24.2%
Amount exceeding KRW 300 billion	27.5%

## Social insurance in the Republic of Korea

Social insurance	Employer portion	Employee portion
Health insurance	Monthly average wage X 3.43% X 1.1152	Monthly average wage X 3.43% X 1.1152
National pension	Monthly average wage X 4.5%	Monthly average wage X 4.5%
Employment Insurance	Wage X (0.8% + premium by business size)	Wage X 0.8%
Industrial accident compensation insurance	Wage X premium by business type (0.7%~34%)	
<b>Total</b>	<b>About 10% of wage</b>	<b>About 9% of wage</b>

Premium rate introduced in this table may vary depending on the situation. Besides, upper limitation is set for some contributions.

1. including local income tax equal to 10% of the amount.

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