

**MEMO# 31042**

January 22, 2018

# For Your Review: Draft Industry Coalition Letter on Korean Capital Gains Tax Proposal

[31042]

January 22, 2018 TO: ICI Global Tax Committee  
International Committee

Tax Committee RE: For Your Review: Draft Industry Coalition Letter on Korean Capital Gains Tax Proposal

The Korean Ministry of Strategy and Finance (MOSF) is proposing to lower the ownership threshold from 25 percent to 5 percent for taxing the capital gains realized by non-Korean investors on the stocks of Korean listed companies. Under the proposed change, the executing broker would be required to withhold the lower of 22 percent of the capital gains or 11 percent of the sales proceeds. If the amount of the gain could not be ascertained, the broker would be required to impose the gross proceeds withholding.

The attached draft letter has been crafted to be sent to the MOSF by a coalition of national and regional fund industry associations as well as banking associations. The letter notes that the proposal could result in extensive over-withholding and damage the Korean stock market. Consequently, the letter urges that the proposal be reconsidered. Should the proposal nevertheless advance, the letter urges:

- that any threshold be applied — to either the CIV or its investors — consistent with OECD guidance, *i.e.*, based upon how the CIV is organized and operated (as either opaque or transparent);
- if the proposal is applied at the CIV investor level, that CIV investors are exempt from the capital gains threshold — absent *actual knowledge* by the broker that the investor holds more than the applicable percentage of a Korean company's stock;
- if the proposal is applied at the CIV level (by respecting the opaque nature of a CIV), that the MOSF likewise respects the CIV's opaque nature for dividend purposes (the issue addressed in the attached 2012 coalition letter);
- that CIVs be treated as related and their interests aggregated only when the broker has *actual knowledge* that an ownership threshold has been exceeded;
- that sufficient time be provided to implement the lower threshold; and
- that the change be implemented only for securities acquired after some future date.

Because the coalition letter must be filed with the MOSF by Sunday, 28 January, please

provide any comments on the letter to the undersigned (at [lawson@ici.org](mailto:lawson@ici.org)) no later than Thursday the 25th.

Keith Lawson  
Deputy General Counsel - Tax Law

[Attachment No. 1](#)

[Attachment No. 2](#)

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