A non-resident foreign company’s establishment of a domestic branch

Q. Does the Foreign Investment Promotion Act apply to the establishment of a local branch by a non-resident foreign company?

A. If a foreign company establishes a domestic branch, the Foreign Exchange Transactions Act (Foreign Exchange Transaction Regulations) shall apply instead of the Foreign Investment Promotion Act.

Additional information

- Types of domestic branches established by a foreign company
  - A “branch” that carries out sales activities that generate profit in Korea.
  - An “office” that does not carry out sales activities that generate profit in Korea, but instead undertakes a non-sales function involving business contacts, market research, R&D, etc.

- Notification of branch establishment
  - In order for a foreign company to establish a domestic branch, the head of a designated foreign exchange bank should be notified of such establishment.
  - However, if a foreign company seeks to establish a domestic branch to pursue the following businesses, the Minister of Finance and Strategy should be notified of such establishment.
    - Financial businesses other than banking business, including fund loans, brokering and arranging overseas finance, cards, installment financing, etc.
    - Businesses related to securities and insurances
    - Businesses not permitted under the Foreign Investment Promotion Act or other laws

- Notification (including notification of change)
  - Notification form: Notification of establishment of a domestic branch of a foreign company (Form no. 9-8 of the Foreign Exchange Transaction Regulations)
  - Documents to be attached
    - Documents certifying the name, location and major businesses of the foreign company that is the headquarters
    - Where an authorization for establishment is required by other laws, a copy of documents certifying such authorization
    - A statement of the content and scope of businesses that the company intends to engage in in Korea

- Introduction of operating funds, etc.
  - Where a domestic branch seeks to introduce operating funds from the overseas parent company, the funds should be introduced through a designated foreign exchange bank.

- Overseas remittance of net profit
  - If a branch that notified its establishment intends to remit net profit overseas, it should be done through a designated foreign exchange bank.
  - Application form for remittance: Form no. 9-10 for application for remittance of the net profit of a foreign company’s Korean branch
  - Documents to be attached Balance sheet and income statement of the branch
  - Certificate of payment of tax
  - An audit certificate by a certified accountant (only if the ratio of the net profit to the amount of introduced operating funds is 100/100 or higher or if the amount of net profit exceeds KRW 100 million during the relevant accounting period)

If you have further questions, please contact +82-1600-7119 or visit www.investkorea.org >>How We Can Help >> Online Consulting.