Q. Are foreigners permitted to contribute to a non-profit corporation?

A. Yes, provided that certain conditions are met.

**Additional Information**

- A foreigner may contribute to a non-profit corporation in the following cases:
  1. Where a foreigner contributes to a non-profit corporation pursuant to the Enforcement Decree of the Foreign Investment Promotion Act with the purpose of establishing continuous cooperative relations with the corporation, which is a corporation (including a corporation under establishment) of the Republic of Korea in the field of science and technology and satisfies the following standards regarding research personnel and facilities:
     * The corporation should have an independent research facility.
     * The corporation should meet either one of the following conditions:
       - The regular employment of research staff is five persons or more, consisting of persons with a master’s degree or higher in the field of science and technology, or persons with a bachelor’s degree in the field of science and technology having not less than three years of research experience.

  - Research and development activities are conducted for a project that accompanies high technology.
  - Contributions to a non-profit corporation by a foreigner that meet the following standards on the contribution amount and line of business, and which the Foreign Investment Committee recognizes as foreign investment
     * The contribution amount is not less than 50 million won.
     * The non-profit corporation’s purpose of establishment falls under the following:
       - The non-profit corporation has been established for the purpose of promoting science, art, medical services or education, etc.; and continues to conduct business to nurture professionals in relevant fields and to expand international exchanges; or
       - The non-profit corporation is the regional headquarters of an international organization that carries out international cooperation business between civilians or governments.

Q. Can a foreigner make an investment by transferring the patents it owns to a Korean company?

A. Patents fall under industrial property rights and are thus considered a means of investment. In other words, intangible assets such as patents can become a means of investment if they are evaluated by an authorized technology evaluation agency. To notify foreign investment, evaluation of the patents should be completed.

**Additional Information**

- Scope of technologies, etc. falling under a means of investment
  * Industrial property rights: patent rights, utility model rights, design rights and trademark rights registered in accordance with the Patent Act, the Utility Model Act, the Design Protection Act or the Trademark Act
  * Copyrights as defined by the Copyright Act that are used for industrial activities
  * Semiconductor layout rights
  * Rights pertaining to the use of such rights or technologies

- Evaluation of technology such as industrial property rights
  * Technology evaluation agencies: Korea Institute for Advancement of Technology; Korea Technology Finance Corporation; Korea Environment Corporation (evaluation of environment related technology); Korea Institute of Science and Technology; Korea Institute of Science and Technology Information; and National IT Industry Promotion Agency

**Notification of foreign investment**

- In the case that the price of industrial property rights, etc. has been evaluated by the above technology evaluation agencies, it shall be deemed that the evaluation has been performed by a certified appraiser in accordance with the Commercial Act.
- When carrying out investment-in-kind, an evaluation by a certified appraiser may substitute the investigation of an inspector. In this case, the notary public or appraiser should report the inspection or appraisal result to the court.

- Notification of foreign investment
  * To notify foreign investment, technology evaluation should be completed and a copy of documents certifying the evaluated price should be attached (an evaluation report by an accounting firm, etc. cannot be used for investment notification purposes).
  * When the evaluated amount is higher than expected and the foreign investment ratio needs to be adjusted, shares can be issued at a premium.

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) that 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 businesses, including fund loans, brokering and arranging overseas finance, cards, installment financing, etc.
    - Businesses related to securities and insurance
    - Businesses not permitted under the Foreign Investment Promotion Act or other laws

---

By Jay Baek

baekj@kotra.or.kr
+82-2-3497-1963

Jay Baek is a Senior Consultant at Invest KOREA. He has been working as a Project Manager for foreign direct investment since 2000. He passed the U.S. CPA exam in 1999.