

When a subsidiary established in the US by a domestic corporation invests in Korea, can this be registered as a foreign-invested company under the Foreign Investment Promotion Act?

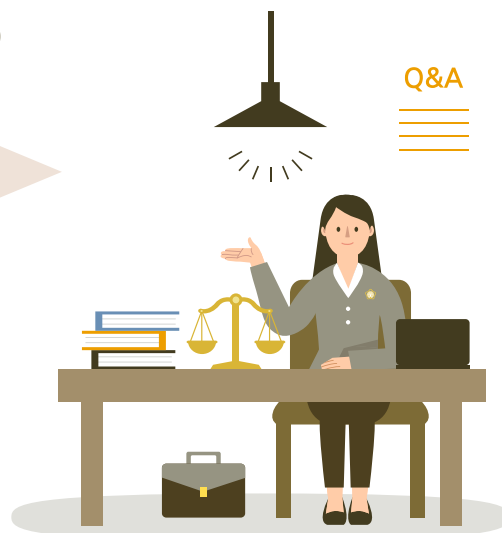
Invest Korea provides a summary of the government's authoritative interpretation on how foreign investment-related laws and regulations should be actually applied. The interpretations are the advice of the Ministry of Government Legislation on questions or conflicts regarding the meaning and interpretation of such laws and regulations.

Q.

When a subsidiary established in the US by a domestic corporation (holding 100 percent of its voting stocks) invests in Korea, can this be registered as a foreign-invested company under the Foreign Investment Promotion Act?

A.

Where a subsidiary established by a domestic corporation in a foreign country invests back in Korea, it is referred to as a round trip investment. A round trip investment itself is not prohibited under the Foreign Investment Promotion Act because a foreign corporation established under applicable foreign laws is deemed a "foreign investor" under the Foreign Investment Promotion Act, regardless of the owner of such corporation.



Reasons



- However, it should be noted that such investment is not recognized as foreign investment in the following circumstances where special benefits are granted to those registered as a foreign-invested company:
 - Tax reductions or exemptions for foreign investment (Article 121-2(11) of the Restriction of Special Taxation Act and Articles 116-2(11) and 116-2(12) of the Enforcement Decree of the Act)
 - Lease and sale of State or public property to foreign-invested companies by a negotiated contract (Article 19(1) of the Enforcement Decree of the Foreign Investment Promotion Act)
 - Reduction or exemption of rent for foreign investment zones (Subparagraph 6 of Article 1 of the Guidelines for Operation of Foreign Investment Zones)

If you have further questions please contact



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