

## [Canada]

- 한국 비즈니스 개요 및 KPMG 한국 클라이언트 서비스 그룹
- 캐나다 Tax 이슈
- 일반적인 투자 구조 소개
- 캐나다 투자에 따른 세무 고려사항
- 캐나다의 Tax incentives programs 소개

11:00 ~ 12:00 (60분)

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# GKP Conference Investment in Canada

**KPMG Canada**

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## Presented by



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# Agenda

- **Korean Companies in Canada & KPMG Korean Client Service Group**
- **Korean clients' needs & KPMG's services**
- **Canadian Tax**
- **Common Investment Structures**
- **Canadian Tax Considerations**
- **Canadian Tax Incentives Programs**





# **Korean Companies in Canada & KPMG Korean Client Service Group**

# Korean companies in Canada

Korean companies have been successful in Canada and KPMG has a dominant Korea clients service group in Canada to support this success.



Korean companies are diverse from many different industries and they are actively operating across Canada

Direct investments are the majority of cases but there are also investments through regional head office in US or locally grown in Canada

To support Korean clients, there have been 7 Korea Practice teams across the country since 1989 and the team has about 100 Korean speaking resources in diverse service lines





# **Korean clients' needs & KPMG's services**



# Korean companies' needs

Korean clients have various needs to be successful in the Canadian market and KPMG provides one stop service for all these needs.







# Taxation in Canada



# Tax in Canada

- Incorporation in Canada vs. No Canadian entity (Branch / Project)
- Non-resident who carries on business in Canada is liable for income tax in Canada
- Tax requirements are modified and restricted by Canada's income tax treaties, including the Canada-Korea Tax Treaty (the "Treaty")
- In particular, Article 7 of the Treaty provides, in effect, that a non-resident's business profits are taxable in Canada only if the non-resident carries on business in Canada through a permanent establishment situated in Canada (a "PE"), and only to the extent of the income attributable to the PE



# PE Considerations

- Will there be any employees or personnel in Canada who have the ability, and habitually exercise that ability, to conclude contracts for the company while in Canada?
- Will the company maintain an office or place of management in Canada through the duration of the project? Consider the manner in which the employees will perform their duties in Canada.
- Will the project extend for more than six months (from date of arriving in Canada until the date of completion and departure)?
  - Under the Treaty, a non-resident operating in Canada (i.e., through a branch) in respect of a construction and installation project would be automatically deemed to have a Canadian PE if that project continued for more than 6 months. Furthermore, the 6-month time limit would be evaluated separately for each project, and a job site that does not have a geographic coherence to another job site would be separately evaluated

# Withholding Tax Reg 105 - Branch

- NR providing service in Canada:
- Withholding tax requirement = 15% of gross revenue
  - Cash flow issue
  - Refund excess once tax return filed
- Waiver could be obtained if no PE in Canada
- Withholding tax can be avoided if incorporated in Canada



# Corporate Tax Rates

Combined Federal and Provincial/Territorial Tax Rates for Income Earned by General Corporation – 2022 and 2023

	M&P Income	Active Business Income	Investment Income
<b>Provincial rates</b>			
British Columbia	27.0%	27.0%	27.0%
Alberta	23.0	23.0	23.0
Saskatchewan	25.0	25.0	25.0
Manitoba	27.0	27.0	27.0
Ontario	25.0	26.5	26.5
Quebec	26.5	26.5	26.5
New Brunswick	29.0	29.0	29.0
Nova Scotia	29.0	29.0	29.0
Prince Edward Island	31.0	31.0	31.0
Newfoundland and Labrador	30.0	30.0	30.0
<b>Territorial rates</b>			
Yukon	17.5	27.0	27.0
Northwest Territories	26.5	26.5	26.5
Nunavut	27.0	27.0	27.0

# Canadian Sales Tax

## Federal and Provincial / Territorial Sales Tax Rates

Provinces and Territories	GST	PST/RST/QST	HST
British Columbia	5% GST	7% PST	
Alberta	5% GST		
Saskatchewan	5% GST	6% PST	
Manitoba	5% GST	7% PST	
Ontario			13% HST
Quebec	5% GST	9.975% QST	
New Brunswick			15% HST
Nova Scotia			15% HST
Prince Edward Island			15% HST
Newfoundland and Labrador			15% HST
Yukon	5% GST		
Northwest Territories	5% GST		
Nunavut	5% GST		



# GST/HST

- Overview of CRA policy
  - The CRA's policy on the meaning of the term is set out in Policy P051R.
  - In that policy the CRA indicates that the determination of whether a non-resident is CoB in Canada is based on a variety of factors, generally based on the case law.

# GST/HST

Annual Level of Taxable Supplies			
	Up to \$1,500,000	\$1,500,000 to \$6,000,000	Over \$6,000,000
Reporting period	Annually	Quarterly	Monthly
Optional reporting period	Monthly or Quarterly	Monthly	None available
Filing due date	Three months after end of annual reporting period	One months after end of reporting period	One months after end of reporting period



# 2022 Combined Top Marginal Personal Tax Rates

	Interest and Regular Income	Capital Gains	Eligible Dividends	Non-eligible Dividends
British Columbia	53.50%	26.75%	36.54%	48.89%
Alberta	48.00	24.00	34.31	42.30
Saskatchewan	47.50	23.75	29.64	41.82
Manitoba	50.40	25.20	37.79	46.67
Ontario	53.53	26.76	39.34	47.74
Québec	53.31	26.65	40.11	48.70
New Brunswick	53.30	26.65	33.51	47.75
Nova Scotia	54.00	27.00	41.58	48.27
Prince Edward Island	51.37	25.69	34.23	47.04
Newfoundland and Labrador	54.80	27.40	46.20	48.96
Yukon	48.00	24.00	28.93	44.04
Northwest Territories	47.05	23.53	28.33	36.82
Nunavut	44.50	22.25	33.08	37.79

Refer to the **Canadian Personal Tax Tables** page for the latest combined top marginal personal tax rates:  
<https://home.kpmg/ca/en/home/services/tax/canadian-personal-tax-tables.html>



# Common Investment Structures

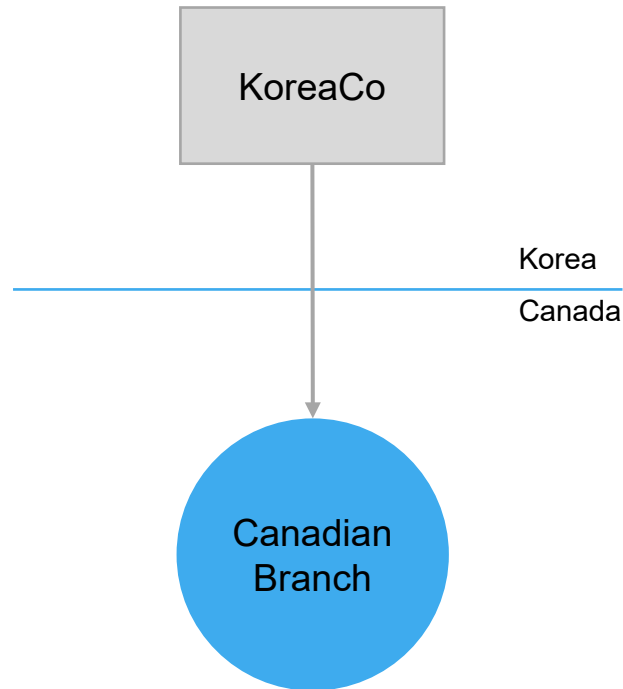


# Common Approaches

- Organic Growth
- Acquisition Growth

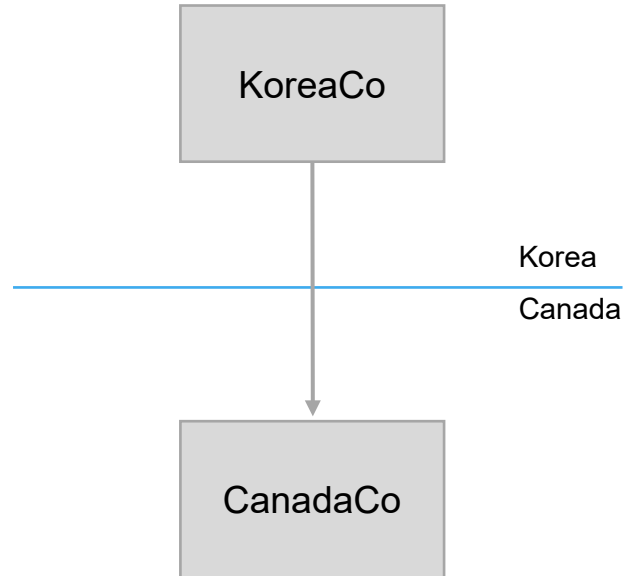


# Organic Growth - Branch



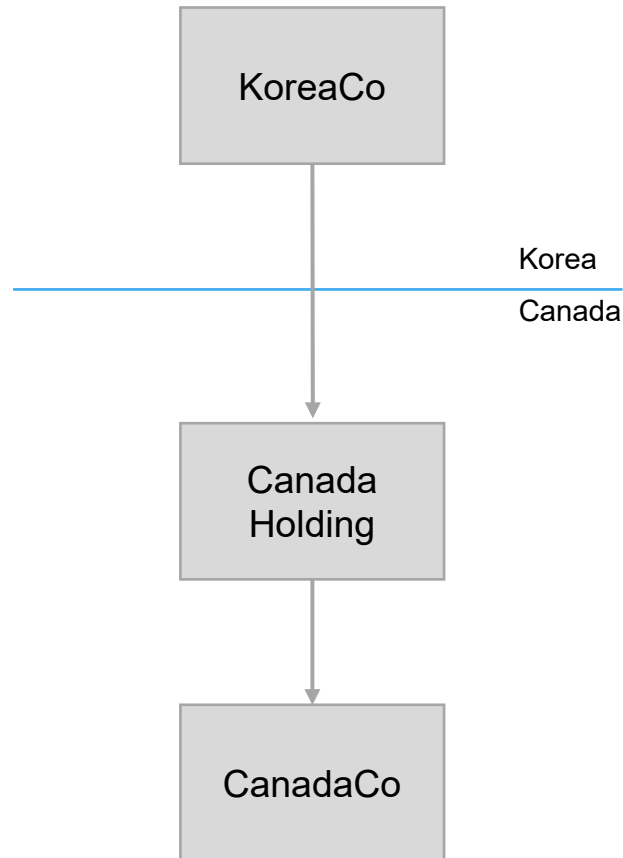
- Korean company operates in Canada through a Canadian branch
- No legal entity in Canada
- PE - Income earned in Canada subject to Canadian Tax (i.e. 2023 in B.C. – 27%)
- Repatriation of funds to Korea subject to Canadian Branch Tax
- Withholding tax requirements for Canadian customers
- Legal Liability – consult with both Canada and Korea legal counsel
- Asset sale - subject to Canadian Tax

# Organic Growth – Canada Corporation



- Korean company incorporates a Canadian corporation
- Income earned in Canada by CanadaCo subject to Canadian Tax (i.e. 2023 in B.C. – 27%)
- Repatriation of funds to Korea subject to withholding tax – reduced with tax treaty (5 – 15%)
- Sale of shares of CanadaCo by KoreaCo may not be subject to Canadian Tax

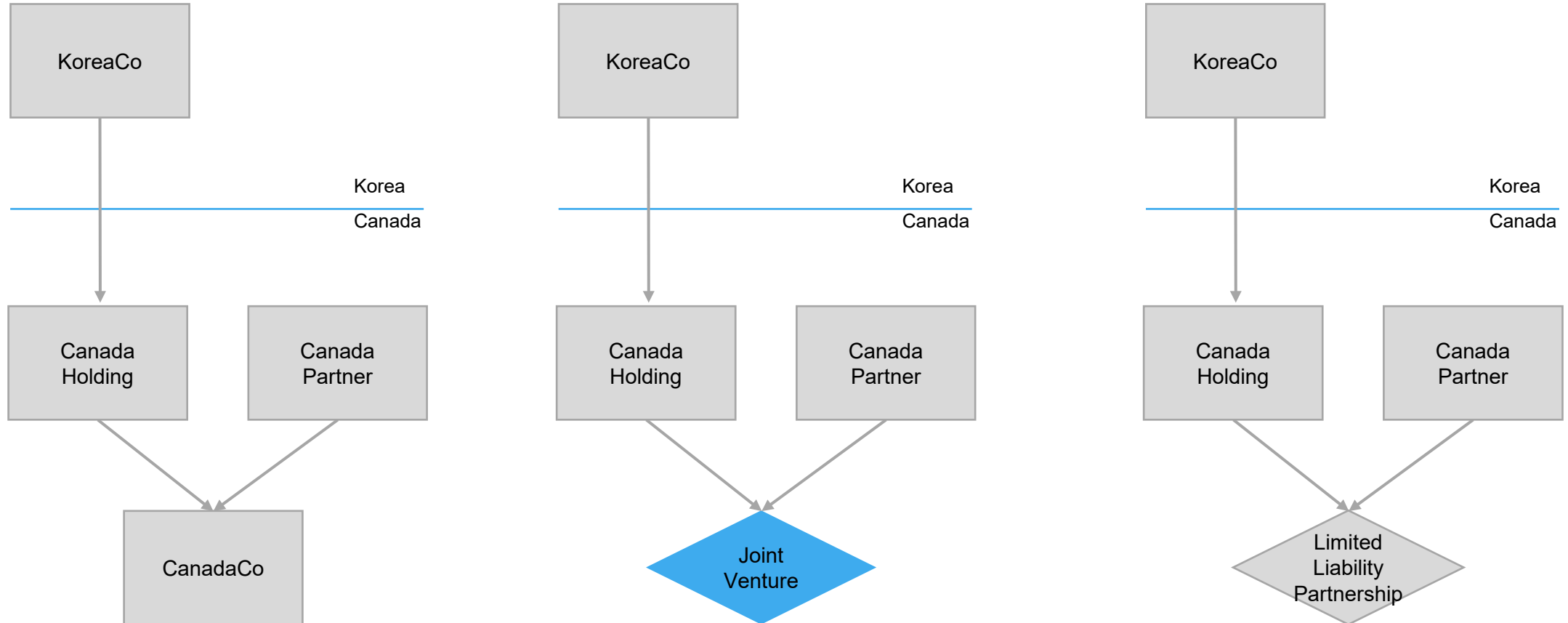
# Organic Growth – Canada Holding Corporation



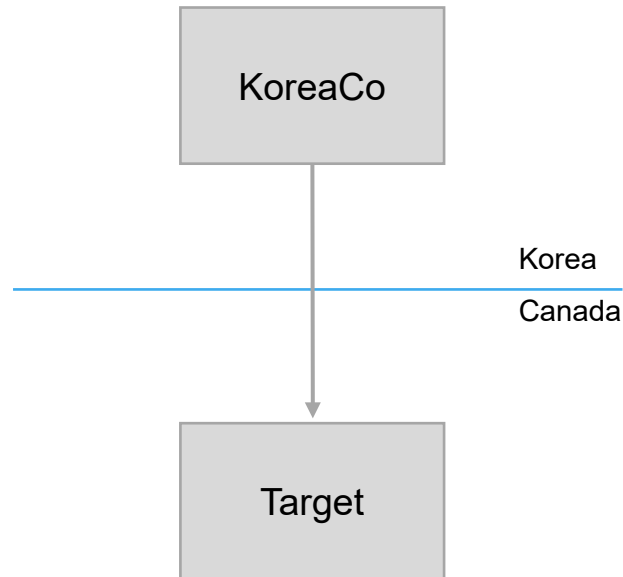
- Korean company incorporates a Canadian Holding corporation and Canadian Holding incorporates CanadaCo
- Income earned in Canada by CanadaCo subject to Canadian Tax (i.e. 2023 in B.C. – 27%)
- Dividend from CanadaCo to Canada Holding may be tax-free intercompany dividend – Separate cash from business operation
- Repatriation of funds by Canada Holding to Korea subject to withholding tax – reduced with tax treaty (5 – 15%)
- Sale of shares of CanadaCo by Canada Holding subject to Canadian capital gains Tax (i.e. 2023 in B.C. – 13.5%)



# Organic Growth – with Canadian Partner

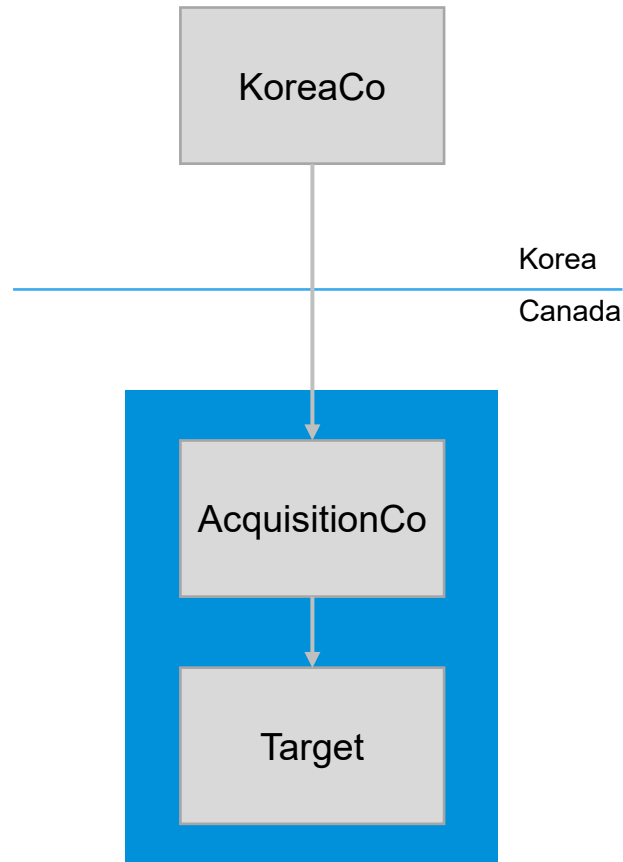


# Acquisition Growth - Base



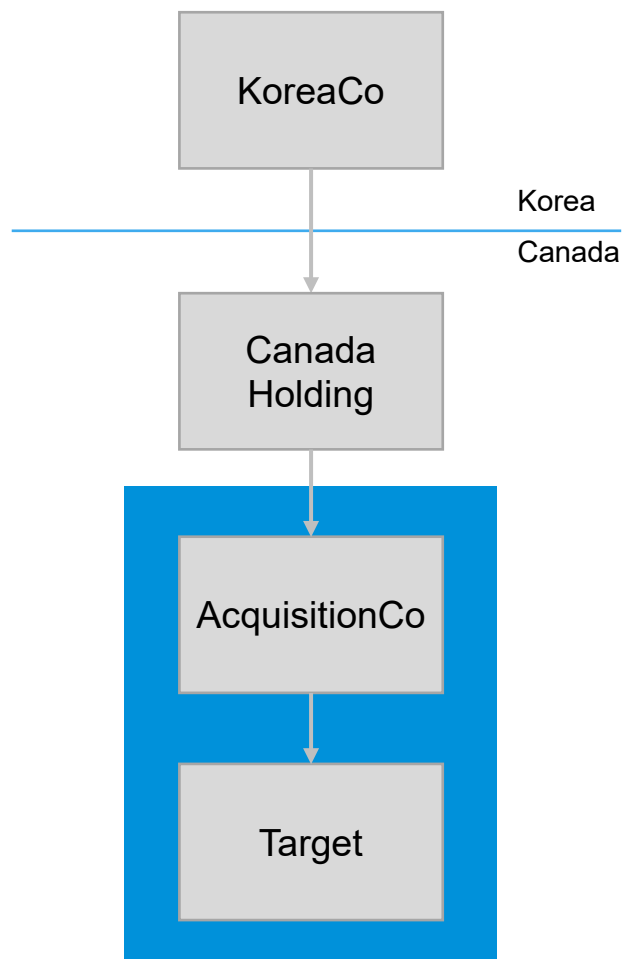
- Korean company acquires Canadian Target company
- Income earned in Canada subject to Canadian Tax (i.e. 2023 in B.C. – 27%)
- Repatriation of initial purchase price to Korea subject to withholding tax except for vendor's original PUC
- Repatriation of funds to Korea subject to withholding tax – reduced with tax treaty (5 – 15%)
- Sale of shares of CanadaCo by KoreaCo may not be subject to Canadian Tax – ACB benefit in Korea

# Acquisition Growth – Acquisition Company



- Korean company incorporates and makes investment to AcquisitionCo
- AcquisitionCo uses the funds received from KoreaCo and acquires Target
- AcquisitionCo and Target Merge together (Amalco) - **Bump**
- Income earned in Canada subject to Canadian Tax (i.e. 2023 in B.C. – 27%)
- Repatriation of initial purchase price to Korea – **No Withholding Tax**
- Repatriation of funds to Korea subject to withholding tax – reduced with tax treaty (5 – 15%)
- Sale of shares of Amalco by KoreaCo may not be subject to Canadian Tax

# Acquisition Growth – Canada Holding



- Korean company incorporates and makes investment to Canada Holding and Canada Holding invests in AcquisitionCo
- AcquisitionCo uses the funds received from Canada Holding and acquires Target
- AcquisitionCo and Target Merge together (Amalco) - **Bump**
- Income earned in Canada subject to Canadian Tax (i.e. 2023 in B.C. – 27%)
- Dividend from Amalco to Canada Holding may be tax-free intercompany dividend – Separate cash from business operation
- Repatriation of initial purchase price to Korea – **No Withholding Tax**
- Repatriation of funds to Korea subject to withholding tax – reduced with tax treaty (5 – 15%)
- Sale of shares of Amalco by Canada Holding subject to Canadian capital gains Tax (i.e. 2023 in B.C. – 13.5%)

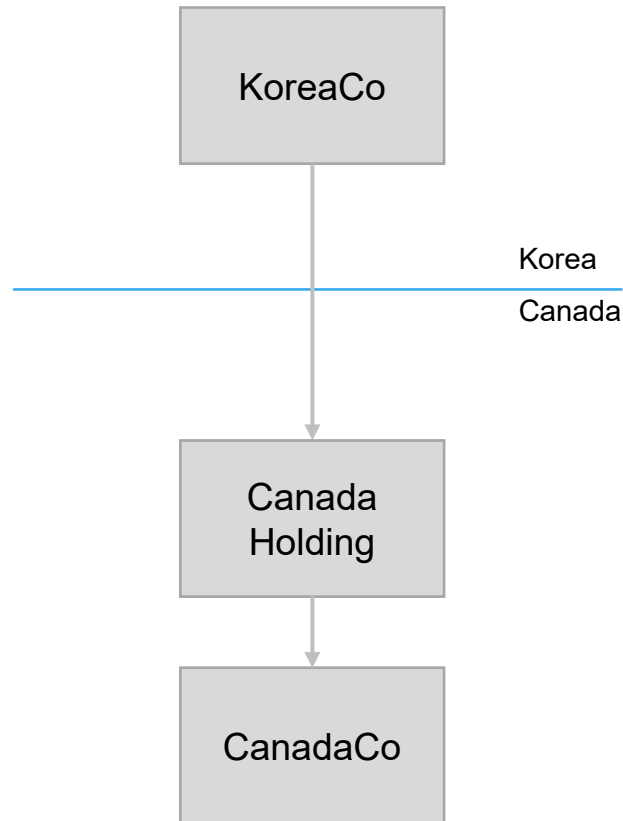




# Canadian Tax Considerations

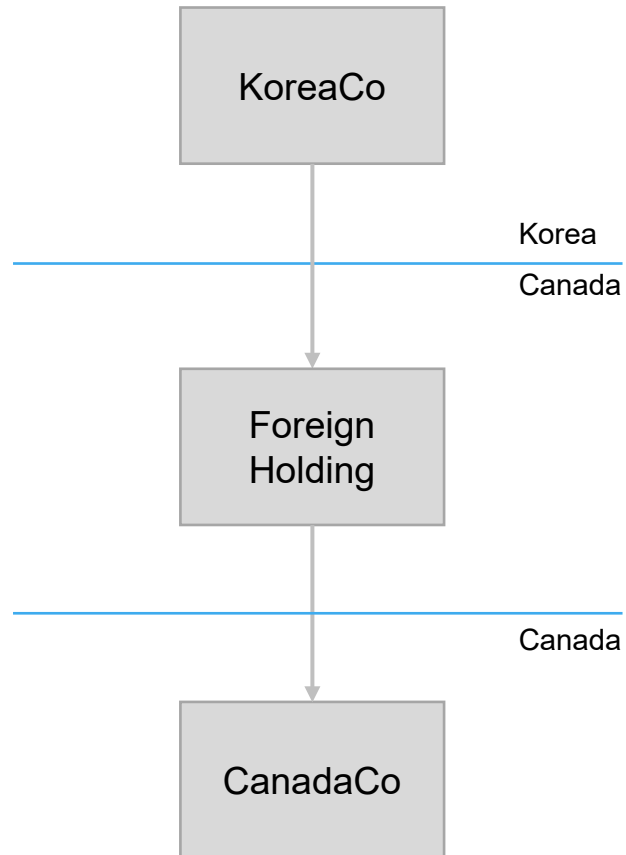


# Repatriation of Funds



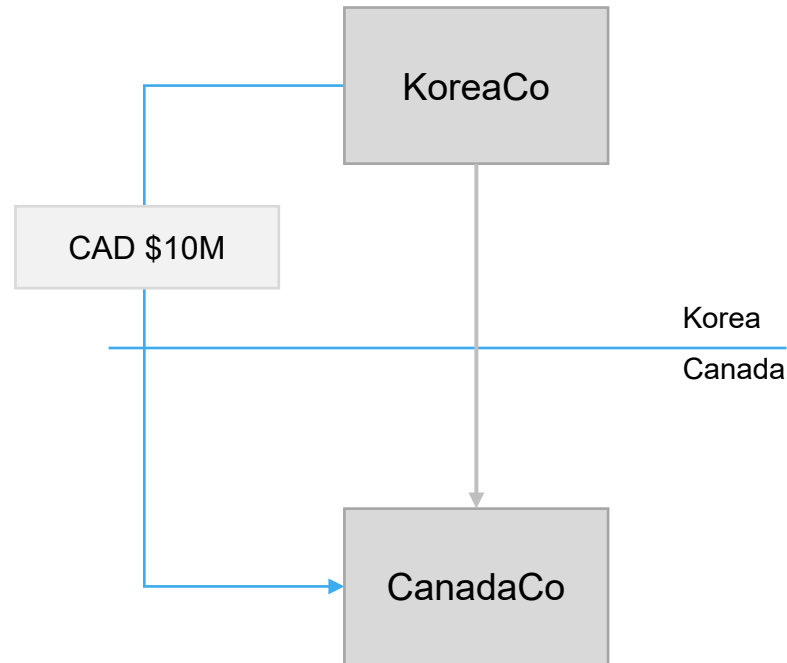
- Funds leave Canada as dividend is subject to Canadian withholding tax
- Normally 25% but tax treaty reduces to 5-15%
- Initial equity investment when incorporating = Paid-up Capital (“PUC”)
- PUC return should not be subject to withholding tax
- **IMPORTANT** to structure it right when acquiring Canadian company

# Repatriation of Funds – Foreign Corporation



- Funds leave Canada as dividend is subject to Canadian withholding tax
- Normally 25% but tax treaty reduces to ?%
- Favorable tax rate under tax treaty between Korea and other country
- Tax on sale of share of CanadaCo in foreign country
- Residency of Foreign Holding
- Treaty shopping and Multilateral Instrument (MLI)

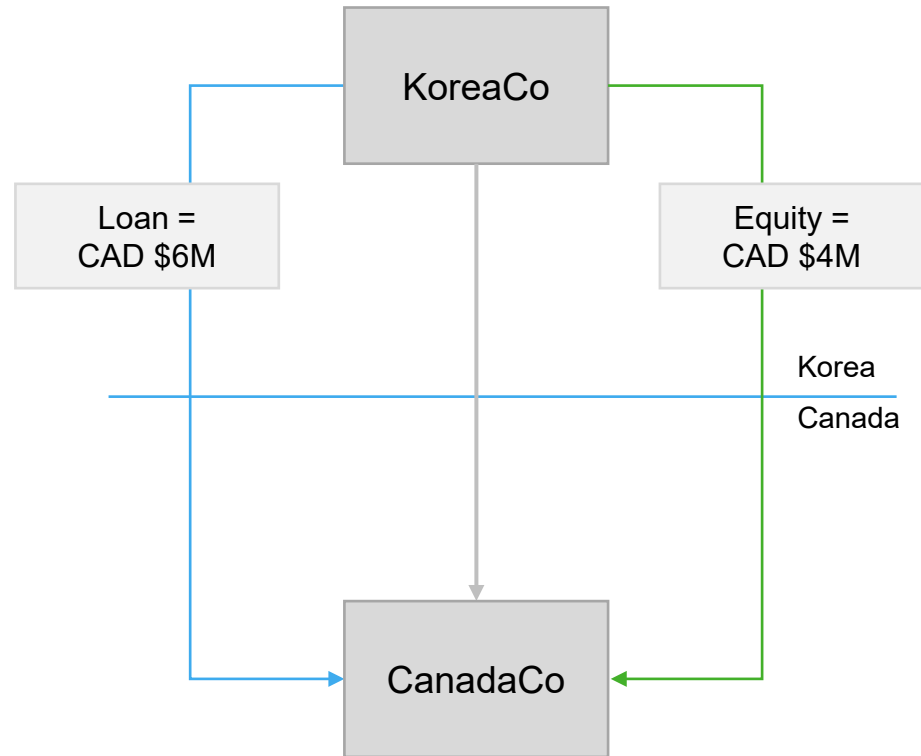
# Thin Capitalization



- KoreaCo invests in CanadaCo \$10M by a way of loan
- CanadaCo pays interest to KoreaCo
- By paying the interest, profit is moved from Canada to Korea
- Debt to Equity = 1.5:1 ratio



# Thin Capitalization



- KoreaCo invests in CanadaCo \$10M by a way of loan
- The loan bears interest
- By Paying the interest, profit is moved from Canada to Korea
- Debt to Equity = 1.5:1 ratio

# Limitations on Interest Deductibility - NEW

## **Who?**

- Corporations, trusts, certain non-resident taxpayers, and indirectly in respect of partnerships.
- Exclusions:
  - Associated groups (CCPCs and corporations associated with that CCPC) have a aggregate taxable capital employed in Canada of less than \$15 million;
  - Groups (corporations and trusts) that have aggregate net interest expense among their Canadian members of \$250,000 or less; and
  - Certain standalone Canadian-resident corporations and trusts.

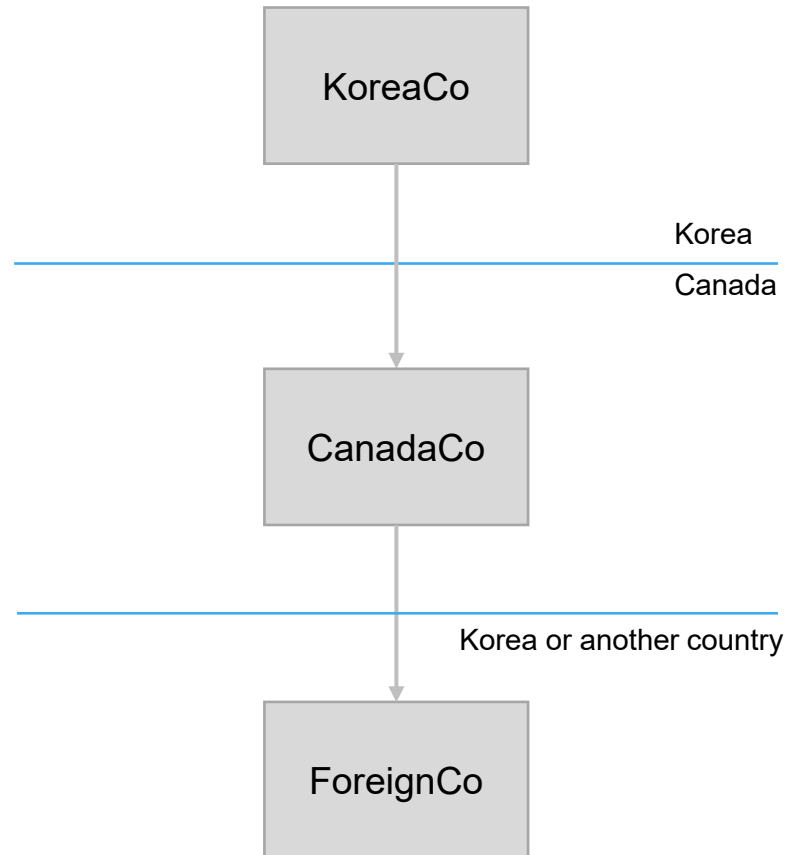
## **What?**

- Interest is deductible up to 30% (40% in the first year of application), of “adjusted taxable income” (effectively EBITDA).
- Group ratio rule included for consolidated approach.
- 3-year carryforwards are available for unused capacity (transitional rules to include unused capacity from the 3 years before the new rules apply).
- Interest denied by the new rule can be carried forward and be deducted in a year that has capacity for up to 20 years.
- Ordering: these new rules apply after existing limitations (such as the thin capitalization rule).

## **When?**

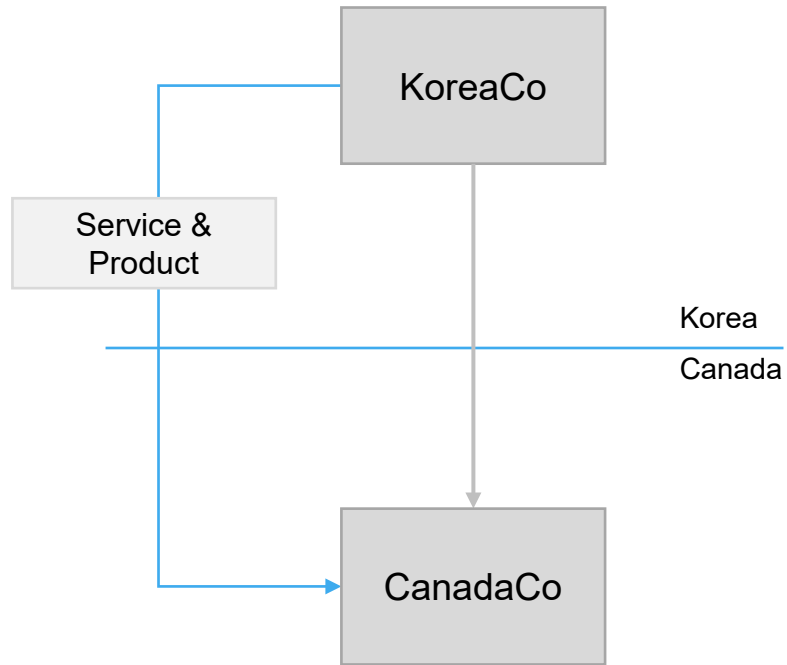
- Taxation years beginning on or after January 1, 2023.

# Foreign Affiliate Dumping



- Canada views the investment CanadaCo makes to its foreign affiliate companies as funds repatriated from Canada
- Withholding tax
- PUC reduction
- Careful consideration of tax consequences is required

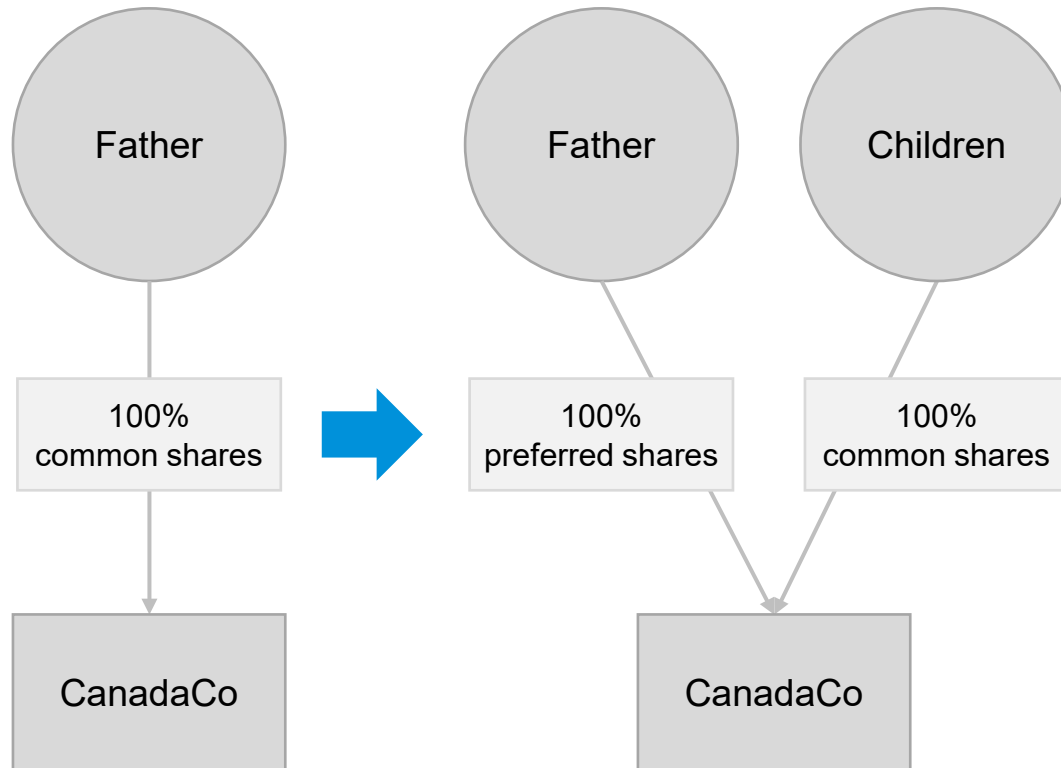
# Transfer Pricing



- KoreaCo provides services or sells products to CanadaCo
- How much to charge?
- Transfer pricing study



# Estate Tax Planning In Canada



- Deemed disposition at fair market value upon passing
- Limit estate tax by exchanging shares to special shares
- Future growth of CanadaCo goes to Children



# Scientific Research and Experimental Development (SR&ED)

# SR&ED Program

- Canada's largest federal tax incentive program provides support for industrial R&D
- Administered by the Canada Revenue Agency
- Legislation by the Department of Finance
- \$3 billion in tax credits granted annually
- 18,000 claimants annually nationwide
- 75% of claims by small businesses

# Summary of Incentives

Federal Investment Tax Credits (ITCs)					
Type of Entity	Nature of Expenditure	ITC Rate on Total Expenditures up to Expenditure Limit	Refund Rate	ITC Rate on Total Expenditures in Excess of Expenditure Limit	Refund Rate
Qualifying CCPCs	Current	35%	100%	15%	40%
Other Corporation	Current	15	-	15	-



# SR&ED program

## Provincial/Territorial Research and Development (R&D) Tax Incentives

	Rate	Description
British Columbia <sup>1</sup>	10%	Refundable and non-refundable tax credit for eligible expenditures incurred in British Columbia by a corporation with a permanent establishment (PE) in the province
Alberta	8% / 20%	Refundable tax credit for eligible expenditures incurred in Alberta by a corporation with a PE in the province
Saskatchewan	10%	Refundable and non-refundable tax credit for eligible expenditures incurred in Saskatchewan by a corporation with a PE in the province
Manitoba	15%	Non-refundable and refundable tax credit for eligible expenditures incurred in Manitoba by a corporation with a PE in the province
Ontario Innovation Tax Credit (OITC)	8%	Refundable tax credit for eligible expenditures incurred in Ontario by a corporation with a PE in the province
Ontario Business-Research Institute Tax Credit (OBRUTC)	20%	Refundable tax credit for eligible expenditures incurred in Ontario by a corporation with a PE in the province as part of an eligible contract with an eligible research institute
Ontario Research and Development Tax Credit (ORDTC)	3.5%	Non-refundable tax credit for eligible expenditures incurred in Ontario by a corporation with a PE in the province
Quebec Credit for contract payments to/for R&D entities and projects	14% / 30%	Refundable tax credit for contract and other payments to certain eligible entities (only 80% of payments to unrelated persons are eligible), subject to expenditure exclusion threshold
Quebec R&D Wage Tax Credits	Canadian-controlled corporations – 30%	Refundable tax credit for R&D wages of Quebec-based employees of a corporation that carries on business in Canada and performs R&D in Quebec, or has such work carried out on their behalf in Quebec. The corporation does not need to have a PE in Quebec
	Others 14%	This credit is also available for 50% of amounts paid to an unrelated subcontractor for R&D performed by employees in Quebec and for 100% of amounts attributed to wages paid to employees of a related subcontractor in Quebec

# SR&ED program

## Net After-Tax Cost of Performing Research and Development (R&D)

General Corporations	B.C	Alta.	Sask.	Man.	Ont.
R&D expenditures	\$1,000	\$1,000	\$1,000	\$1,000	\$1,000
Provincial/territorial ITC	(141)	0	(141)	(212)	(49)
Federal ITC @ 15%	(191)	(212)	(191)	(180)	(205)
Federal tax deduction	668	788	668	608	746
Federal taxes saved	\$100	\$118	\$100	\$91	\$112
Provincial/territorial taxes saved	\$80	\$63	\$80	\$73	\$86
<b>Total tax savings</b>					
Federal tax savings	\$291	\$330	\$291	\$271	\$317
Provincial/territorial tax savings	221	63	221	285	135
Total savings	\$512	\$393	\$512	\$556	\$452
<b>Net after-tax cost of R&amp;D</b>	<b>\$488</b>	<b>\$607</b>	<b>\$488</b>	<b>\$444</b>	<b>\$548</b>

# SR&ED program

General Corporations	Que	N.B.	N.S.	P.E.I	Nfld
R&D expenditures	\$1,000	\$1,000	\$1,000	\$1,000	\$1,000
Provincial/territorial ITC	(105)	(212)	(212)	0	(212)
Federal ITC @ 15%	(196)	(180)	(180)	(212)	(180)
Federal tax deduction	699	608	608	788	608
Federal taxes saved	\$105	\$91	\$91	\$118	\$91
Provincial/territorial taxes saved	\$80	\$85	\$85	\$126	\$91
<b>Total tax savings</b>					
Federal tax savings	\$301	\$271	\$271	\$330	\$271
Provincial/territorial tax savings	185	297	297	126	303
Total savings	\$486	\$568	\$568	\$456	\$574
<b>Net after-tax cost of R&amp;D</b>	\$514	\$432	\$432	\$544	\$426

# What expenditures can be claimed for SR&ED (s.37(1))

## Expenditures incurred in Canada:

- Salaries and wages of employees & specified employees directly engaged in SR&ED
- Materials consumed or transformed during SR&ED
- Arm's length & non-arm's length contract payments
- Third party payments (i.e. payment to universities)
- Overhead expenditures – traditional method vs. proxy method

# Salaries and Wages incurred in Canada (SR&ED)

- Non-specified employees:
  - Salary or wages + taxable benefits + bonus
- Specified employees (>10% shares owned):
  - Salary or wages
- Non-specified/specified employees work outside Canada:
  - Employee has to be a Canadian tax resident
  - Work needs to be related to field testing outside Canada



# SR&ED 5 Questions to determine eligibility

## Need to answer yes to all

Was there a scientific or technological uncertainty?

Was a hypothesis developed to reduce that uncertainty?

Was the approach consistent with the scientific method, including testing the hypothesis by means of experimental analysis?

Was the overall approach undertaken for the purpose of achieving a scientific or technological advancement?

Was a record of the hypothesis tested and results kept as the work progressed?

> If yes to all questions, start tracking development costs



**Thank you**



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