

Newsletter

January 2022

Bi-monthly Newsletter of Hanul LLC



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This newsletter is prepared and issued by Hanul LLC in Seoul, Korea on a bi-monthly basis and intended to provide foreign investors with an update on tax law changes in South Korea and other related subjects of special interests to foreign investors. The information provided herein should not form a basis of any decision as to a particular course of action, nor should it be relied upon as a substitute for a detailed advice in individual cases.

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■ Korean Tax Law Changes in 2022

Proposed tax law changes announced by the Korean government in July 2021 were approved by the National Assembly in December 2021 with several amendments and additions. We summarized below some of the major tax law changes for 2022 to keep you updated. Most of the tax law changes we discussed below came into force from the fiscal year starting, or income earned, on or after January 1, 2022 unless indicated otherwise.

I. Corporate Income Tax Law (CITL)

● Introduction of reporting requirements of liaison offices of foreign corporations

For Korean tax purposes, liaison offices of foreign (non-Korean) corporations may engage in non-revenue generating liaison activities exclusively for the entity of which the liaison offices are a part (i.e., the head office). The non-revenue generating activities include conducting advertising, public relations, collection and supply of information, scientific research, or other similar activities of a preliminary or auxiliary nature and other liaison activities solely for the head office. Since a liaison office, by definition, acts only for its home office and does not generate revenue in Korea, it is not subject to the Korean corporate income tax and need not file a corporate income tax return in Korea.

Under the tax law changes, the liaison offices of foreign corporations shall be required to submit certain information on the status of the liaison office by February 10th of the following year. The required information includes basic information of the liaison office, its representative, information relating to its headquarters, other branches of the foreign corporation in Korea, list of domestic customers, etc. The purpose of this new reporting requirements of liaison offices in Korea is to prevent avoidance of corporate income tax liability of foreign corporations through their liaison offices in Korea, when in essence it is operated as a permanent establishment (PE) of the concerned foreign corporation.

This change will become effective from the fiscal year beginning on or after January 1, 2022.

● Introduction of a new deduction limit for the existing net operating losses (“NOL”) in case of business transfer

In order to prevent tax avoidance through a business transfer, under the tax law changes, the existing NOL of the transferee company cannot be utilized to offset the taxable income from the business transferred from the acquired company if the following conditions are met:

- (i) The business transfer is made between related parties, and
- (ii) 70% or more of the total assets and 90% or more of net assets are transferred to the transferee company.

The amended rule shall apply to the business transfer made on or after January 1, 2022.

● Introduction of a new penalty for non-submission of expense details related to business cars

Currently, a taxpayer who claims a deduction for expenses incurred for the use of business cars is required to submit expense details related to business cars. However, there is no penalty for the non-submission of such expense details.

Under the tax law changes, if a taxpayer claims a deduction for expenses incurred for the use of business cars, but fails to submit or inaccurately submit expense details related to business cars, a penalty of 1% on the non-reported or inaccurately reported amount shall be imposed.

The revised provision will become effective from the tax year beginning on or after January 1, 2022.

II. Individual Income Tax Law (IITL)

- **Introduction of tax credit limit for voluntary tax payment through a taxpayers' association**

Class B earned income means employment income received from a foreigner or foreign corporation outside Korea, excluding those claimed as a deductible expense for a Korean place of business of a non-resident or a foreign corporation. Class B earned income can be reported by respective employees either (1) through a Class B taxpayers' association by the 10th day of the following month or (2) through the individual income tax return filing by May 31 of the following year. Currently, employees can enjoy a 5% tax credit if they voluntarily report their monthly Class B earned income through a taxpayers' association.

Under the tax law changes, the tax credit will be subject to annual limit of KRW 1 million. Further, the tax credit will be applicable until December 31, 2024.

This change will be applicable to income earned from January 1, 2022.

- **Increase in a threshold of capital gains tax exemption on real estate sales for single-house owners**

Under the tax law changes, the threshold of capital gains tax exemptions for single-house owners on the sales of houses which meet certain criteria prescribed by the Presidential Decree of IITL will be raised to KRW 1.2 billion from the previous KRW 900 million.

This change will take effect to capital gains from the transfer made on or after December 8, 2021.

III. Others

- **Extension of time for the issuance of amended VAT invoice**

Currently, where any requisite information of VAT invoice is wrongly stated due to reasons other than an error, an amended VAT invoice can be issued no later than the filing due date of the VAT return for the taxable period in which the date of supply of goods or services falls.

Under the tax law changes, the due date of the issuance of amended VAT invoice is extended to one (1) year after the filing due date of the VAT return.

This change will be applicable to goods or services supplied on or after the effective date of the relevant Presidential Decree of VAT Law.

- **Ease of conditions for issuing an advance VAT**

Currently, to be deemed as a lawful VAT invoice, an advance VAT invoice should satisfy one of the following conditions:

- (i) The sales consideration is paid within 7 days from the VAT invoice issuance date;
- (ii) Both of the following condition a. and b. are satisfied for the advance VAT invoice:
 - a. The agreement entered into between the seller and the purchaser prescribes the **fixed timings** of invoicing and of payment separately; **AND**

- b. The period between invoicing and payment timing under contract is **30 days or shorter**.
- (iii) Where the time for supplying goods or services arrives during the taxable period that includes the date of issuance of the tax invoice **and** an amount stated in the tax invoice is verified to have been paid.

Under the tax law changes, the above requirement (iii) will be eased, whereby the payment in the same taxable period is not necessary.

- **Reduction of late payment interest charge**

Currently, the interest charge for late payment of taxes is 0.025% per day (9.125% per annum) of the amount unpaid or underpaid. Under the tax law changes, the late payment interest charge will be decreased to 0.019% ~ 0.022% per day (6.94% ~ 8.03% per annum).

This amendment will be applicable to a late payment interest charge imposed after the enforcement date of new Presidential Decree of National Tax Basic Law. However, former provision shall apply in the case where tax payment due date has already passed before the enforcement date of new Presidential Decree.

- **Increase in low tax rate threshold for Controlled Foreign Corporations (“CFC”) rule**

Currently, the undistributed earnings of CFCs located in the jurisdictions where the tax burden does not exceed 15% of the income actually earned by the CFCs shall be deemed a dividend paid to the Korean shareholder. In order to prevent offshore tax avoidance through CFCs, the threshold for low tax rate for determining a CFC will be increased from the current 15% to 70% of the Korean top marginal corporate income tax rate (25% at present). In addition, the scope of CFC will be expanded to include certain types of foreign trust (e.g., purpose trust, trust with beneficiary certificates, limited liability trust under the Korean Trust Act).

The amendment will apply from the tax year commencing on or after January 1, 2022.

- **Introduction of documentation requirement for foreign company or non-resident providing electronic services**

Currently, if a foreign company not having a PE in Korea provides electronic services (e.g., games, sounds, video files, electronic documents, software, advertising, brokerage, cloud computing, etc.) to the Korean consumers (excluding registered VAT leviable or exempt taxpayers), the concerned foreign company shall be required to make a special VAT registration with the Korean tax authorities within 20 days as from its Korean business commencement date and to prepare and file its quarterly VAT returns with the Korean tax authorities by the 25th day following the calendar quarter-end.

Under the tax law changes, the foreign company which provides electronic services to Korean customers shall be required to maintain transaction details such as the type of services provided, service recipients, considerations, numbers of transactions and the timing of supplies for 5 years. In addition, if requested by the tax authorities, such transaction details should be submitted within 60 days as from receiving the request.

This amendment will apply to the electronic services provided on or after July 1, 2022.

- **Extension of sunset period of flat income tax rate for foreigner workers**

Currently, the individual income tax liabilities of foreigner workers (excluding daily employed workers) on

earned income from the rendering of his/her services to companies in Korea including foreign invested companies can be finalized by applying the 19% flat income tax rate (excluding local income tax equal to 10% of income tax) on gross earned income for the first five (5) year period. This rule was supposed to expire at the end of 2021.

Under the tax law changes, this rule will be extended to December 31, 2023.

■ 2021 Annual Corporate Income Tax Return Filing (due filing by March 31, 2022 for December 31 fiscal year-end)

● 2021 Annual Corporate Income Tax and Local Income Tax Returns Filing Deadlines

Under the CITL, a company having a fiscal year ended December 31, 2021 should file the 2021 annual corporate income tax return by March 31, 2022 together with necessary tax payments thereof.

In this connection, we summarized the due dates of tax return filing and necessary tax payment related to corporate income tax and local income tax as follows:

In principle, annual/interim corporate income tax and local income tax returns are due filing together with tax payment as given below:

Tax returns	Filing due dates
● Annual corporate income tax return	- <u>Within 3 months</u> from the fiscal year-end
● Interim corporate income tax return	- <u>Within 2 months</u> after the first 6 months of each fiscal year
● Annual local income tax return	- <u>Within 4 months</u> after the fiscal year-end

If the annual/interim corporate income taxes payable are over KRW 10 million, companies are allowed to make tax payments in 2 installments as below:

Tax returns	Payment due dates
● <u>Annual corporate income tax return</u> - 1st installment (*) - 2nd installment (*)	- Within 3 months from the fiscal year-end - Within 1 month from the end of the filing due date (within 2 months for a small and medium-sized company)
● <u>Interim corporate income tax return</u> - 1st installment (*) - 2nd installment (*)	- Within 2 months from the end of interim period - Within 1 month from the end of the filing due date (within 2 months for a small and medium-sized company)

(*) The amount of installments shall be determined as follows:

If total taxes payable is:		Installment payments can be broken down as below:
Over KRW 10 million ~ up to 20 million	1st installment	10 million
	2nd installment	Excess over 10 million
Over KRW 20 million	1st installment	50% or more of taxes payable
	2nd installment	Remaining balance

(**) Installment payment is not applicable for local income tax.

■ Year-end Settlement and Declaration of Payroll Withholding Taxes for 2021 (due filing by March 10, 2022)

The employer as a tax withholding agent must perform the year-end settlement of exact payroll withholding taxes for and on behalf of its employees in February of the following year after each year end as required by the IITL of Korea.

In this connection, the employer should reflect the results of year-end settlement in the February payroll of the following year accordingly. Any overpayment resulting from the year-end settlement is used to offset the payroll taxes due in February of the following year and onward until fully utilized. For any underpayment resulting from the year-end settlement, the employer should withhold additionally from the February payroll and remit it to the tax office as scheduled by March 10 of the following year (i.e., by March 10, 2022 for year 2021).

For the year-end settlement processing, the employees should gather and submit supporting documents to claim tax deductions/credits.

By the year-end settlement and filing, employees having only salary income may fulfill his/her annual individual income tax reporting obligations in Korea. On the other hand, employees having other source of income exceeding certain thresholds than salary income are required to file additionally an annual individual income tax return ("종합소득세신고" in Korean) together with tax payment on or before May 31 of the following year (i.e., by May 31, 2022 for 2021 income).

■ Major Changes in 2021 Year-End Settlement of Payroll Withholding Taxes

- Revision in scope of taxation of salary and wage earned income and provision of legal ground for nontaxation of salary and wage paid for employee welfare

2020	2021
<ul style="list-style-type: none"> ■ Scope of salary and wage earned income <ul style="list-style-type: none"> • Benefits from receiving housing <ul style="list-style-type: none"> - Excluding benefits from receiving company housing for officers who are not shareholders, employees who are not officers, etc. • Benefits from receiving loans for purchase or lease of housing with low or zero interest <ul style="list-style-type: none"> - Excluding benefits received by employees of Small and Medium Enterprises (SMEs) • Insurance premiums borne by the employer for the benefit of its employees or their family members as beneficiaries <ul style="list-style-type: none"> - Excluding the insurance premiums paid by the employer for group guarantee-type insurances and group refund guarantee insurance of maximum KRW 	<ul style="list-style-type: none"> ■ Deleted non-taxable income removed from the scope of salary and wage earned income <p style="text-align: center;"><u>Deleted</u></p>

<p>700,000</p> <p>< Newly added ></p>	<ul style="list-style-type: none"> ■ Non-taxation of salary and wage earned income paid for employee welfare <ul style="list-style-type: none"> • Benefits from receiving company housing for officers who are not shareholders, employees who are not officers, etc. • Benefits from receiving loans for purchase or lease of housing with low or zero interest for employees of SMEs • Insurance premium for group guarantee-type insurance and group refund guarantee insurance of maximum KRW 700,000
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This revised provision will be applicable for earned income incurred on or after January 1, 2021.

- **Application of income deduction for housing purchase/lease funds for foreign employees who are tax residents of Korea**

2020	2021
<ul style="list-style-type: none"> ■ Employees eligible for Income deduction of housing purchase/lease funds* <ul style="list-style-type: none"> * ① Income deduction for housing lease funds, ② Income deduction for long-term housing mortgage interest payment ③ Tax credit for monthly rents <ul style="list-style-type: none"> • Employee who is the head of a household having salary earned income, but not owning a house (including employee who owns 1 house for income deduction case ② above) <ul style="list-style-type: none"> * Where the household head does not receive deduction, the household member shall be eligible <p style="text-align: center;">< Newly added ></p> 	<ul style="list-style-type: none"> ■ Foreigner(non-Korean) employees are newly added to be eligible. <ul style="list-style-type: none"> • Same <ul style="list-style-type: none"> • Foreigner(non-Korean) employees* who does not own a house are newly added (including employee who owns 1 house in the case of ② above) <ul style="list-style-type: none"> * Foreigner employee shall be defined as <ul style="list-style-type: none"> (i) Foreigner (non-Korean) who is registered under the Immigration

	<p>Control Law or Ethnic Korean holding foreign citizenship who is registered under the Overseas Korean Act of Korea, and</p> <p>(ii) Where a foreigner's spouse or a foreigner's lineal descendants and ascendants who share livelihood with the foreigner employee do not receive income deduction for housing funds.</p>
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This revised provision is intended to provide residential stability for foreigner(non-Korean) employee who are non-homeowners, and will be applicable for the principal and interest repayment on housing lease loan, long-term housing mortgage interest payment, and monthly rents paid on or after January 1, 2021.

- **Increase in maximum income tax rate**

2020		2021		
■ Tax base and tax rates for individual income tax		■ Raised the maximum tax rate and adjusted tax brackets as below.		
Gross salary	Rate	Gross salary	Rate	
Not over KRW 12 Million	6%	Not over KRW 12 Million	6%	
KRW 12 Million ~ not over KRW 46 Million	15%	KRW 12 Million ~ not over KRW 46 Million	15%	
KRW 46 Million ~ not over KRW 88 Million	24%	KRW 46 Million ~ not over KRW 88 Million	24%	
KRW 88 Million ~ not over KRW 150 Million	35%	KRW 88 Million ~ not over KRW 150 Million	35%	
KRW 150 Million ~ not over KRW 300 Million	38%	KRW 150 Million ~ not over KRW 300 Million	38%	
KRW 300 Million ~ not over KRW 500 Million	40%	KRW 300 Million ~ not over KRW 500 Million	40%	
Over KRW 500 Million	42%	Over KRW 500 Million ~ not over KRW 1 Billion	42%	
			Over KRW 1 Billion	45%

This revised provision is intended to improve equality in taxation and strengthen re-distribution of income, and will be applicable for earned income incurred on or after January 1, 2021.

- **2021 additional income deduction for increased spending on credit card use**

2020	2021										
<p>■ Income deductions for credit card use, etc.:</p> <ul style="list-style-type: none"> • (Eligibility) Applicable to the amount exceeding 25% of gross salary earned income • (Deduction rate) Income deduction rate varies depending on payment method as below. 	<p>■ Newly added additional income deduction for increased spending on credit card use:</p> <ul style="list-style-type: none"> • Same 										
<table border="1"> <thead> <tr> <th style="background-color: #FFD700;">Payment method</th><th style="background-color: #FFD700;">Deduction rate</th></tr> </thead> <tbody> <tr> <td>① Credit card use</td><td>15%</td></tr> <tr> <td>② Cash receipts / debit cards</td><td>30%</td></tr> <tr> <td>③ Amounts spent on book purchases, performance, art museum expenses (eligible only for employees having salary earned income of KRW 70 Million and less)</td><td>30%</td></tr> <tr> <td>④ Amounts spent in traditional markets and public transportations</td><td>40%</td></tr> </tbody> </table>	Payment method	Deduction rate	① Credit card use	15%	② Cash receipts / debit cards	30%	③ Amounts spent on book purchases, performance, art museum expenses (eligible only for employees having salary earned income of KRW 70 Million and less)	30%	④ Amounts spent in traditional markets and public transportations	40%	
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< Newly added >											
<ul style="list-style-type: none"> • (Deduction cap) The cap of income deduction: KRW 2 ~ 3 million depending on earned income level: 	<ul style="list-style-type: none"> - Deduction on increased credit card spending, etc.: Where credit card spending, etc. in 2021* increased by over 5% from 2020, 10% of the amount in excess of 5% shall be deducted. * Total of ① ~ ④ 										
<table border="1"> <thead> <tr> <th style="background-color: #FFD700;">Total salary earned Income level</th><th style="background-color: #FFD700;">Income deduction cap</th></tr> </thead> <tbody> <tr> <td>KRW 70 Million and less</td><td>KRW 3 Million</td></tr> <tr> <td>KRW 70 Million ~ 120 Million</td><td>KRW 2.5 Million</td></tr> <tr> <td>Over KRW 120 Million</td><td>KRW 2 Million</td></tr> </tbody> </table>	Total salary earned Income level	Income deduction cap	KRW 70 Million and less	KRW 3 Million	KRW 70 Million ~ 120 Million	KRW 2.5 Million	Over KRW 120 Million	KRW 2 Million	<ul style="list-style-type: none"> • Same 		
Total salary earned Income level	Income deduction cap										
KRW 70 Million and less	KRW 3 Million										
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Over KRW 120 Million	KRW 2 Million										
<ul style="list-style-type: none"> - (Additional cap) KRW 1 Million for each payment method* <ul style="list-style-type: none"> * book purchase, qualified entertainment, art museum, traditional markets, public transportation, etc. 	<ul style="list-style-type: none"> - Additional KRW 1 Million applied for deduction on increased credit card spending, etc. 										

<ul style="list-style-type: none"> • (Application period) Applicable up to December 31, 2022 	<ul style="list-style-type: none"> • Same
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This revised provision will be applicable for year-end settlement of earned income for 2021 and after.

- **Expansion of tax credit for monthly housing rent**

2020	2021
<ul style="list-style-type: none"> ■ Tax credit for monthly housing rent: <ul style="list-style-type: none"> • (Eligibility) Employees having annual gross salary earned income of KRW 70 Million or less (having global income of KRW 60 Million or less) • (Deduction rate) <ul style="list-style-type: none"> - Employees having annual gross salary of KRW 70 Million or less (for employees having global income of KRW 60 Million or less): 10% - Employees having annual gross salary of KRW 55 Million or less (for employees having global income of KRW 40 Million or less): 12% • Max deduction: KRW 7.5 Million 	<ul style="list-style-type: none"> ■ Adjustment in threshold for taxpayers having global income: <ul style="list-style-type: none"> • Same • Same - Global income threshold of KRW 40 Million raised to KRW 45 Million or less) • Same

- **Amendment of income tax reduction/exemption scheme for foreigner(non-Korean) engineers**

2020	2021
<ul style="list-style-type: none"> ■ Income tax reduction/exemption for foreigner(non-Korean) engineers <ul style="list-style-type: none"> • (Eligible foreigner engineer) Foreigner engineers or researchers <ul style="list-style-type: none"> - Person who provides engineering technology under an engineering technology* induction contract (contact value of USD 300,000 or more) <ul style="list-style-type: none"> * Machinery, shipbuilding, aerospace, telecommunications, chemicals, etc. - Person who satisfies ① and ② below: <ul style="list-style-type: none"> ① Personnel qualifications: 	<ul style="list-style-type: none"> ■ Personnel qualifications are strengthened, but the scope of hiring institutions is expanded <ul style="list-style-type: none"> • (Eligible foreigner engineer) Same <ul style="list-style-type: none"> - Same - Person who satisfies ① and ②: <ul style="list-style-type: none"> ① (Strengthened personnel qualifications):

<p>Researchers</p> <p>② Hiring institutions: R&D center of foreign-invested companies*</p> <p>* The portion of foreign share ownership is 30% or more</p> <ul style="list-style-type: none"> • (Tax reduction/exemption allowed) 50% of income tax exemption for 5 years * For raw materials, parts and equipment specialized leading companies, 70% tax exemption for 3 years and 50% exemption for 2 years 	<p>Researchers with bachelor's degree or higher in engineering and science and who have worked for a foreign science and technology research institute for five years or longer*</p> <p>* two years for a doctoral degree holders</p> <p>② (Expanded scope of hiring institutions) Domestic corporate-affiliated research centers, research departments, government-funded research institutes, etc.</p> <ul style="list-style-type: none"> • Same
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This revised provision will be applicable for employment contract established on or after February 17, 2021.

- **Temporary increase of tax credit on donations**

2020		2021	
Tax credit rate for donations		Temporarily increase the tax credit rate for donations for 5% for 1 year period (Jan 1, 2021 ~ Dec 31, 2021) as below	
Donation Amount	Rate	Donation Amount	Rate
KRW 10 Million or less	15%	KRW 10 Million or less	20%
Over KRW 10 Million	30%	Over KRW 10 Million	35%

■ **Labor Law Update on Minimum Wage**

The Ministry of Employment and Labor (MOEL) has published an official announcement that the minimum hourly wage will increase from KRW 8,720 to **KRW 9,160 effective from January 1, 2022** (the monthly minimum wage will be KRW 1,914,440 with the 209 work hours under the labor laws of Korea). The requirement shall be applied equally to across all industries.

	2021	2022	% increase
Minimum hourly wage	KRW 8,720	KRW 9,160	5.05%
Minimum monthly wage	KRW 1,822,480	KRW 1,914,440	

Please contact any of the following individuals with any inquiries or comments.

KS Han, G S Sim or S Y Lee at Tax & BPO Services

Hanul LLC

Member Crowe Global

Sindo Building, 10th Floor, 14 Teheran-ro 88-gil,
Gangnam-gu, Seoul 06179, Korea

TEL: (82)(2) 316-6600 FAX: (82)(2) 775-5885

E-mail: post@crowe.kr

Website: <http://www.crowe.kr>

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