



Providing Excellence In Client Services

September 2014

# Newsletter

Bi-monthly Tax Newsletter of Horwath Choongjung LLC

## Contents

- Korea - Vietnam Tax Treaty
- Update on 2014 Tax Law Changes
- New Tax Ruling

*This newsletter is prepared and issued by Horwath Choongjung LLC (Choongjung Accounting Corp.) on a bi-monthly basis and intended to provide foreign investors with an update on tax law changes in 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.*

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

**Contacts:** **SY Kim, SJ Kim or GS Sim** at Tax&BPO Services of Horwath Choongjung [Tel: (82)(2) 316-6600, Fax: (82)(2) 775-5885, E-mail: [post@crowehorwath.co.kr](mailto:post@crowehorwath.co.kr)]

*(You may find this newsletter and other items of interest at <http://www.crowehorwath.co.kr>)*

**■ Korea - Vietnam Tax Treaty****Korea - Vietnam Tax Treaty**

The Ministry of Strategy and Finance agreed to revise current double taxation treaty with Vietnam at the meeting with the Vietnamese authority held on 8-10 August in Vietnam. The revised tax treaty will be effective after signing a formal agreement and ratification of both countries. The main contents of the proposed and agreed revisions are as follows:

**■ Offshore Income**

The offshore income (excluding service income) of Korean companies generated from the activities performed outside of Vietnam will not be taxed in Vietnam.

**■ Gains from Share Transfer**

Gains derived from transfer of stocks in a corporation will be taxed in the source country if 50% or more of the company's assets are composed of real estate. Except for this case, gains from alienation of stocks will be taxed only in the resident country.

**■ Royalties**

Withholding tax rate on royalties will be reduced to 10% (down from 15%), but royalty for technical and engineering services can be taxed in the source country at 7.5%. Withholding tax rate on patents will remain unchanged at 5%.

**■ Information Exchange**

Korea and Vietnam will exchange financial and tax related information of the residents for prevention of tax evasion based on the OECD guideline.

**■ Prevention of Granting Treaty Benefits**

Exclusion rules will be added to the treaty in order to prevent tax treaty benefits for any tax avoidance attempts.

**■ Update on 2014 Tax Law Changes****Key Changes in Enforcement Decree of Corporate Tax Law (“CTL-ED”)**

The Ministry of Strategy and Finance announced the following changes to CTL-ED on August 26 [Notice 2014-136].

**■ Accelerated depreciation for Small and Medium-sized Enterprises (“SME”) (Article 28-6 of CTL-ED)**

SME will be allowed to elect more flexible useful life for tax depreciation. Under current CTL, corporations may elect a useful life from the range of 70% to 130% of

the standard useful life for tax depreciation. However, SME will be allowed to choose one from the range of 50% to 150% of the standard useful life for its tax depreciation. In order for an SME to apply for this rule, (a) total investment in business purpose tangible assets for current taxable year should not be lower than that of previous taxable year, and (b) the special useful life will be applicable only for the investments in facility assets made from October 1, 2014 through December 31, 2015.

■ Tax deduction for cost of stock option (Article 20-1-3-b of CTL-ED)

When a qualified “venture company” grants stock options to its employees and as a result, new stocks are issued at the price lower than the market price (i.e. exercise price) to the employees who exercised the option, the corporation will be allowed deduction of the difference between the market price and the exercise price from its taxable income for corporate tax purposes.

■ New Exception for Qualified Merger or Demerger (CTL-ED Article 80-2-1-1-f)

Under Article 80-2 of the CTL-ED, in the case where a merger or demerger satisfies certain conditions for a qualified merger or demerger, taxable gains derived from the merger or demerger can be deferred to later years. One of the conditions for this rule is that the shareholders of the merged or demerged company should not dispose of related shares until the end of taxable year in which the merger/demerger registration date falls.

Under the new CTL-ED, if the shareholders of the merged or demerged company have to dispose of the shares in order to comply with the corporate rehabilitation agreements (based on the Corporation Restructuring Promotion Act) with the creditors, although the shareholders do not meet the share retention period requirement, gains derived from the merger or demerger can be deferred to later years.

■ **New Tax  
Ruling**

**When to recognize bonus expense as tax deductible**

In the case where a corporation pays performance bonus to its employees, which are based on differentiated ratings considering both the quantitative (ratio of meeting target operating profit and the stock price to be determined at year-end) and the qualitative (evaluation of the board of directors to be determined in the following year) aspects of the employees, such bonus shall be reported as tax deductible in the taxable year when the bonus amount per each employee is fixed and determined. (Soduk-400, July 12, 2014.)

**VAT invoice mistakenly issued on non-taxable transaction: No tax fine**

Under the VAT Law, 2% of invoice amount will be levied as tax fine if a VAT invoice is issued on non-VAT leviable transactions (i.e. any transaction not related to supply of goods or services.) However, in the case where a taxpayer issues a VAT invoice for a sales promotion fee, which is not regarded as VAT leviable transaction, 2% tax fine will not be imposed on the seller and the buyer as long as the VAT invoice was actually issued by mistake. (Buga-698, August 12, 2014.)

\* \* \* \* \*

**Horwath Choongjung LLC**

Member Crowe Horwath International

PMAA Jaram Building, 16th Floor, 78 Mapodaero,  
Mapo-gu, Seoul 121-815, Korea

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

E-mail: [post@crowehorwath.co.kr](mailto:post@crowehorwath.co.kr)Website: <http://www.crowehorwath.co.kr>

*Horwath Choongjung LLC is a member of Crowe Horwath International, a Swiss association. Each member firm of Crowe Horwath International is a separate and independent legal entity. Horwath Choongjung LLC and its affiliates are not responsible or liable for any acts or omissions of Crowe Horwath International or any other member of Crowe Horwath International and specifically disclaim any and all responsibility or liability for acts or omissions of Crowe Horwath International or any other Crowe Horwath International member.*