

Newsletter

January 2021

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 2021

Proposed tax law changes announced by the Korean government in July 2020 were approved by the National Assembly in December 2020 with several amendments and additions. We summarized below some of the major tax law changes for 2021 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, 2021 unless indicated otherwise.

I. Corporate Income Tax Law (CITL)

● Extension of foreign tax credit carryforward and deduction for unused foreign tax credit

Currently, a company can claim a foreign tax credit for foreign taxes paid or to be paid in relation to its foreign source income for five years if the claimed foreign tax credit is in excess of tax limit.

Under the tax law changes, to strengthen a relief for double taxation of foreign source income, the five (5)-year carryforward period would be extended to ten (10) years.

In addition, for foreign tax credits which are not used during the carryforward period, taxpayers will be allowed to deduct the unused tax credit amount from taxable income for the year immediately following the year in which the carryforward period ends. This change will apply to the unused foreign tax credit whose existing carryforward period (i.e., five years) would not lapse upon income tax return filing on or after January 1, 2021.

● Increased threshold for deductible small entertainment expenses without qualified supporting documents

Currently, all entertainment expenses over KRW 10,000 threshold should be substantiated by valid supporting documents to be tax deductible for corporate income tax reporting purposes within tax limit allowed (an exception applies for cash gifts for congratulation/condolence to business partners/customers, which do not need to be supported by valid supporting receipts if the amount is KRW 200,000 or less).

Under the tax law changes, the threshold of KRW 10,000 shall be increased to KRW 30,000, which will apply for payments from January 1, 2021.

II. Individual Income Tax Law (IITL)

● Housing fund deductions allowed to qualified foreign resident employees

Currently, application of income deductions and tax credit for housing funds for qualified individuals is allowed to a resident employee who is a Korean national only. Under the tax law changes, the application of income deductions and tax credit shall be allowed to a qualified foreign resident employee as well.

● Increased individual income tax rate

Under the tax law changes, the top marginal individual income tax rate bracket shall be established and the top marginal tax rate shall be 49.5% (including 10% local (provincial) income tax assessed on top of individual income tax liability) as given below. The revised provision will be effective for income earned from January 1, 2021.

Before Change		After Change	
Taxable income	Tax rate	Taxable income	Tax rate
KRW 12 mil or less	6.6%	Same as left	Same as left
KRW 12 mil ~ KRW 46 mil	16.5%	Same as left	Same as left
KRW 46 mil ~ KRW 88 mil	26.4%	Same as left	Same as left
KRW 88 mil ~ KRW 150 mil	38.5%	Same as left	Same as left
KRW 150 mil ~ KRW 300 mil	41.8%	Same as left	Same as left
KRW 300 mil ~ KRW 500 mil	44.0%	Same as left	Same as left
Exceeding KRW 500 mil	46.2%	KRW 500 ~ KRW 1 bil	46.2%
		Exceeding KRW 1 bil	49.5%

III. Others

- **Expansion of the scope of Overseas Specially Related Party (“OSRP”)**

Under the tax law changes, when determining whether a third party is in an overseas special relationship by directly or indirectly owning at least 50% of the voting shares of both transaction parties, the calculation of the shareholding ratio of the third party also includes shares directly or indirectly owned by a relative under the International Tax Coordination Law of Korea (“ITCL”).

As the shares directly or indirectly owned by the relatives shall be considered in determining the overseas special relationship, the transactions subject to the transfer pricing taxation may also be expanded, so care must be taken to ensure that the transactions are not omitted from the list of the OSRP transactions when preparing the Master File and Local File to meet the BEPS requirements. The revised provision is effective from the tax year beginning on or after January 1, 2021.

- **Extension of retrospective application period of Advance Pricing Agreement (“APA”)**

Currently, it shall not be possible to apply APA for some of the tax years within the statute of limitations for tax assessment even if an application for APA is intended to be applied retrospectively.

Under the tax law changes, the period of retrospective application of bilateral APA through a mutual agreement shall be extended from five (5) years to seven (7) years in accordance with the statute of limitations for tax assessment on offshore transactions, and the period of retrospective application of unilateral APA shall be extended from three (3) years to five (5) years in accordance with the period of claim.

The revised provision is applied to the APA applied for the first time on or after January 1, 2021. This amendment is expected to increase the protection of the rights of taxpayers applying for retrospective APA application.

- **Extension of deadline for submitting the Schedule of International Transactions (“SIT”)**

Under the tax law changes, the deadline for submitting the SIT and the Summarized Profit and Loss Statement of OSRP (“SPLS”) is extended from the reporting due date of the tax base under the Corporate

Income Tax Law (i.e., three (3) months after the end of the tax year) to six (6) months after the end of the tax year.

The revised provision is applied to the SIT and SPLS to be submitted on or after January 1, 2021.

■ 2020 Annual Corporate Income Tax Return Filing (due filing by March 31, 2021 for December 31 fiscal year-end)

● 2020 Annual Corporate Income Tax and Local Income Tax Returns Filing Deadlines

Under the CITL, a company having a fiscal year ended December 31, 2020 should file the 2020 annual corporate income tax return by March 31, 2021 together with necessary tax payments.

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 Won 10 million, companies are allowed to make tax payments in 2 installments as below:

Tax returns	Payment due dates
<ul style="list-style-type: none"> ● <u>Annual corporate income tax return</u> - 1st installment (*) - 2nd installment (*) 	<ul style="list-style-type: none"> - 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)
<ul style="list-style-type: none"> ● <u>Interim corporate income tax return</u> - 1st installment (*) - 2nd installment (*) 	<ul style="list-style-type: none"> - 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 Won 10 million ~ up to 20 million	1st installment	10 million
	2nd installment	Excess over 10 million
Over Won 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 2020 (due filing by March 10, 2021)

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 following year after each year end mandatorily 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 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 (by March 10, 2021 for year 2020).

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 additionally (i.e., by May 31, 2021 for 2020 income).

■ Major Changes in 2020 Year-End Settlement of Payroll Withholding Taxes

- Limit established for employment income deduction

2019		2020	
Employment income deduction:		Established the maximum limit for employment income deduction:	
Gross salary	Rate	Gross salary	Rate
KRW 5 Million or less	70%	KRW 5 Million or less	70%
KRW 5 Million ~ KRW 15 Million	40%	KRW 5 Million ~ KRW 15 Million	40%
KRW 15 Million ~ KRW 45 Million	15%	KRW 15 Million ~ KRW 45 Million	15%
KRW 45 Million ~ KRW 100 Million	5%	KRW 45 Million ~ KRW 100 Million	5%
Over KRW 100 Million	2%	Over KRW 100 Million	2%
		<ul style="list-style-type: none"> ○ Maximum limit for employment income deduction: KRW 20 Million 	

● **Temporary increase in income deduction limits for credit card usage**

2019		2020				
Deductions for credit card usage: <ul style="list-style-type: none"> o Applicable to amount spent exceeding 25% of gross earned income o Deduction rate of 15 ~ 40% applied depending on payment method 		Increase in the limit on income: <ul style="list-style-type: none"> o Same as left o Different deduction rates applicable by months 				
Payment method	Rate	Payment method	~ Feb	Mar	Apr ~ Jul	Aug ~
Credit card usage	15%	Credit card usage	15%	30%		15%
Cash receipts / Debit cards	30%	Cash receipts / Debit cards	30%	60%		30%
Amounts spent on book purchases and qualified entertainment expenses	30%	Amounts spent on book purchases and qualified entertainment expenses	30%	60%	80%	30%
Amounts spent in traditional markets/public transportations	40%	Amounts spent in traditional markets/public transportations	40%	80%		40%
<ul style="list-style-type: none"> o The cap on income deduction: KRW 2 ~ 3 million depending on earned income level 		<ul style="list-style-type: none"> o Increase in the cap on deduction by KRW 0.3 Million for 2020 				
Earned Income	Cap	Earned Income	Cap			
KRW 70 Million and less	KRW 3 Million	KRW 70 Million and less	KRW 3.3 Million			
KRW 70 Million ~ 120 Million	KRW 2.5 Million	KRW 70 Million ~ 120 Million	KRW 2.8 Million			
Over KRW 120 Million	KRW 2 Million	Over KRW 120 Million	KRW 2.3 Million			

● **Adjustment to scope of tax credit for children**

2019	2020
Children eligible for tax credit claim: <ul style="list-style-type: none"> o Children aged 7 or more o including children aged younger than 7 enrolled in elementary school 	Children eligible for tax credit claim: <ul style="list-style-type: none"> o Same as left o <u>Deleted</u>

● **Revised method of deducting donation carryover**

2019	2020
Order of donation deduction: <ul style="list-style-type: none"> o Donation incurred in relevant tax year is deducted first o Donation carried over from previous tax year is deducted second 	Order of donation deduction changed: <ul style="list-style-type: none"> o Donation carried over is deducted first o Donation incurred in relevant tax year is deducted second

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

2019	2020
Tax credit for monthly housing rent: <ul style="list-style-type: none"> o Eligible taxpayer: taxpayers having annual gross salary of less than KRW 70 Million (having global income of less than KRW 60 Million) o Deduction rate: 10% for employees having annual gross salary of 70 Million or less (for taxpayers having global income of 60 Million or less) o Deduction rate: 12% for employees having annual gross salary of 55 Million or less (for taxpayers having global income of 40 Million or less) o Max deduction: KRW 7.5 Million 	Adjustment in threshold for taxpayers having global income: <ul style="list-style-type: none"> o Same as left o Same as left o Deduction rate: 12% for employees having annual gross salary of 55 Million or less (for taxpayers having global income of <u>45 Million</u> or less) o Same as left

● **Extended foreign tax credit carryforward period and allowed deduction for unused foreign tax credits**

2019	2020
Application of foreign tax credit: <ul style="list-style-type: none"> o Foreign tax credit limitation $\text{Computed tax} \times \frac{\text{Foreign source income}}{\text{Tax base}}$ o Carryforward period for tax credits in excess of limitation: 5 years 	Extended foreign tax credit carryforward period and allowed deduction for unused foreign tax credits: <ul style="list-style-type: none"> o Same as left o Carryforward period: 5 years → <u>10 years</u> o Foreign tax credits unused during the

	carryforward period will be deductible in the year following the expiration
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● **Increased tax exempt limit of gains from exercising stock options in venture companies**

2019	2020
Tax exemption of certain gains from exercise of stock options by directors and employees of venture companies: <ul style="list-style-type: none"> o Gains from exercising stock options granted by a venture company (market price – exercise price) o Tax exemption limit: KRW 20 Million per year o Application period: until December 31, 2020 	Increased the scope and the limit for tax exemption: <ul style="list-style-type: none"> o Gains from exercising stock options granted by an unlisted venture company and venture company listed on KONEX o Tax exemption limit: KRW 30 Million per year o Application period: <u>until December 31, 2021</u>

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