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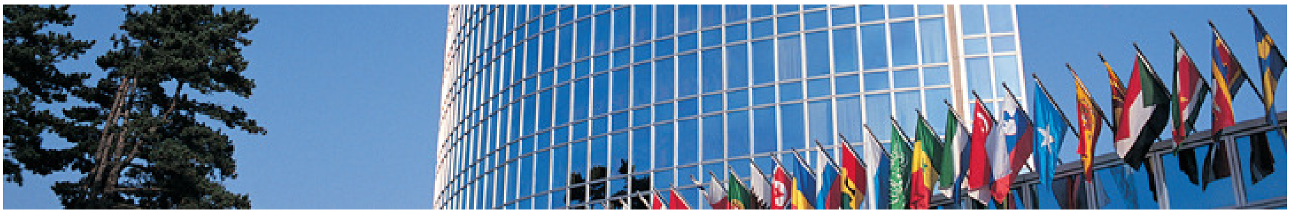

Providing Excellence In Client Services

January 2015

Newsletter

Bi-monthly Newsletter of Horwath Choongjung LLC

Contents

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.

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■ **2014 Year-end Settlement of Individual Income Taxes**

Guide for 2014 Year-end Settlement of Individual Income Taxes

An employer paying wage and salary income must withhold income tax monthly from the earnings of their employees based on the "Quick Tax Table" issued by the National Tax Service and the total of these income tax withholding has to be paid over to the district tax office by the 10th day of the following month throughout the year.

After the year-end, in February of every year, the tax liabilities of each employee's (excluding daily workers) prior year wage and salary are then finalized by its employer through the declaration of year-end settlement of exact payroll withholding taxes in Korea.

Based on the results of year-end settlement, the employer shall make necessary adjustments for any overwithholding (or underwithholding) in the February payroll accordingly.

For the recent changes of rules for 2014 year-end settlement of individual income taxes, please refer to Section 3. Individual Income Tax Law (IITL) on page 3 below.

■ **2015 Tax Law Changes**

Proposed tax law changes announced by the government on August 2014 were approved by the National Assembly in December 2014 with several amendments and additions. We summarized below some of the major tax law changes for 2015 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, 2015, unless indicated otherwise.

1. International Tax Coordination Law (ITCL)

■ Advance review program for tax base determination to be adopted for both ITCL and the Customs Duty Act (ITCL, Article 6-3)

Taxpayers can apply for an advance review of tax base determination methodology for the purpose of imposing custom duties on imported goods to the tax authorities concurrently when they apply for an APA (Advance Pricing Agreement) for national taxes purpose.

■ Penalty provision adopted to penalize failure to submit statement of international transactions (ITCL, Article 12)

If the taxpayer who has an obligation to submit statement of international transactions with overseas specially related parties does not submit such document by the corporate income tax return filing due date, a delinquent filing penalty can be imposed for up to Won 10 million.

- Change in Thin Capitalization Rules (ITCL, Article 14)

  If a foreign-invested company (including a Korean branch of foreign banks) borrows from a Foreign Controlling Shareholder ("FCS") or a third party with a guarantee from the FCS, and such borrowings exceed 300% of its equity (or paid-in capital if it is greater than the equity), the interest expense on debt exceeding 300% of the FCS' share of the borrower's equity is denied deduction and treated as deemed dividend distributed to FCS under the Thin Capitalization Rules.

  To tighten this Thin Capitalization Rules, under the revised ITCL, the debt-to-equity ratio was reduced to 200% from 300% and the definition of loan from FCS was extended to loans received from the relatives of FCS.

- Increase of penalty on failure to report offshore financial account information (ITCL, Articles 34-2 and 35)

  The penalty imposed on failure to report overseas financial account information to the tax authorities was increased from 10% to 20% on unreported amount.

- Penalty exemption provisions adopted to encourage voluntary reporting of income and properties hidden offshore (ITCL, Article 38)

  In the case where a tax resident of Korea who owns offshore-hidden income and properties reports such offshore income and properties voluntarily along with payment of applicable taxes to the tax authorities within the grace period given, related penalties can be exempted.

2. Corporate Income Tax Law (CITL)

- Increase in basic limit of deductible entertainment expenses of small and medium-sized corporations (CITL, Article 25)

  In order to support small and medium corporations, the basic limit of deductible entertainment expenses of small and medium corporations was raised from Won 18 million to Won 24 million. An amount equal to certain percentage of annual sales will also be added to determine total deductible entertainment expenses as below.

Sales amount	Applicable rates
Won 10 billion or less	20/10000
Over Won 10 billion ~ Won 50 billion	Won 20 million + 10/10000 for excess over Won 10 billion
Over Won 50 billion	Won 60 million + 3/10000 for excess over Won 50 billion

■ Introduction of taxation on excessive retained earnings of companies to create virtuous circle between corporate income and household income (CITL, Article 56)

If a company whose equity is Won 50 billion or more retains earnings excessively within the firm without utilizing them for investment, wage and dividend, etc. for up to a certain percentage of total earnings of the concerned fiscal year, such excessive retained earnings shall be subject to additional corporate income taxes, apart from corporate income taxes to be imposed on taxable earnings of the fiscal year (temporarily enforced until December 31, 2017).

■ Compulsory requirement of electronic tax invoice issuance and submission to the National Tax Service for all VAT-exempted corporate taxpayers (CITL, Article 76)

VAT-exempted taxpayers have been allowed to issue either electronic tax invoices or paper tax invoices as issuing electronic tax invoice was not mandatory before the revision, which raised transparency concerns.

From July 1, 2015, VAT-exempted taxpayers shall be required to issue electronic tax invoices for all transactions and submit them to the National Tax Service the same as what regular taxpayers do. For non-compliance, additional penalty taxes can be imposed from January 1, 2016.

■ Grace period extended before enforcement of additional taxation on capital gains from transferring non-business purpose land of small and medium-sized corporations

In the case where any idle land which has not been used for business is transferred, an additional 10% should be added to the basic corporate tax rate on capital gains. However, in order to activate real estate transactions in Korea, the government had given a grace period up to December 31, 2014 before adoption of such additional taxation provision. Under the revised tax law, this grace period has been extended for another year until December 31, 2015.

■ Increase of penalties for non-compliance of filing obligation on detailed investment schedule for overseas real estate (CITL, Article 121-3)

The maximum penalty cap when failed to comply with the filing obligation of detailed investment schedule for overseas real estate was raised from Won 10 million to the 1/100 of the acquisition cost (with Won 50 million ceiling).

3. Individual Income Tax Law (IITL)

■ Shift of retirement income deduction from the current fixed percentage basis to the progressive percentage basis (IITL, Articles 48 and 55)

Before the tax law revision, retirement income deduction was made on the fixed percentage basis where we can deduct 40% of retirement income uniformly when calculating retirement income tax base. Under the revised IITL, to reduce tax burden of low income workers and increase tax burden of high income workers, the retirement income deduction was changed to the progressive percentage basis with the rates ranging from 35% to 100% of the original income deduction.

This revised IITL provision will come into force for the retirement income earned on or after January 1, 2016.

■ Change in special provision on dividends received from high dividend offering companies when calculating comprehensive income taxes (IITL, Article 62)

If a taxpayer has any dividends received from the defined “high dividend offering companies” which meet certain criteria such as dividend trend, dividend income ratio and increase rate of total dividend as stipulated by the Special Tax Treatment Control Law, the revised IITL requires that 9% tax rate shall apply on such dividends received from the “high dividend offering companies” when calculating taxes on comprehensive income.

4. Special Tax Treatment Control Law (STTCL)

■ Special provisions for taxation on exercise gains of qualified stock option (STTCL, Article 16-3)

For venture company stocks (defined), taxpayers were taxed on gains from exercise of stock options as wage and salary income. Under the revised STTCL, taxpayers can be taxed at the time he/she sells shares received from exercise of stock options as capital gains, while the taxpayers are entitled to be exempt from wage and salary income taxes.

■ Income tax exemption of foreign(non-Korean) engineers (STTCL, Article 18)

For fair treatment of foreign engineers and domestic R&D human resources, and improve effectiveness of current support system for foreign engineers, the revised STTCL no longer provides benefits to foreign engineers who provide advanced technologies to foreign-invested enterprises in Korea and receive wage and salary income. However, income tax exemption benefit will be extended for foreign engineers who work for domestic enterprises (domestic R&D center, etc.) and receive wage and salary income for 4 more years until December 31, 2018.

■ Extension of special provisions in taxation for foreign(non-Korean) workers (STTCL, Article 18-2)

In order to induce high value-added foreign investments, foreign workers working for the regional headquarters designated by the Ministry of Trade, Industry and Energy according to the Foreign Investment Promotion Act of Korea ("designated regional headquarters") can be entitled to special provisions in wage and salary income taxation without limitation of period as the sunset clauses of this special provision was deleted. However, for foreign workers working for enterprises other than the designated regional headquarters above, the sunset provision is extended for 2 more years until December 31, 2016.

■ Special treatment in dividend income received from the "high dividend offering companies(defined)" (STTCL, Article 104-27)

For dividend income received from the high dividend offering companies, taxpayers shall be applied a tax rate of 9/100 until the fiscal year-end that December 31, 2017 falls. Alternatively, taxpayers may choose to be applied a tax rate of 25/100 on dividend income separately, which will then be excluded from taxation on comprehensive income.

■ Local (Provincial) Income Tax Law Amendments enforced from 2015

Local Income Tax Law(LITL)

Under the revised LITL, taxation scheme of the local income tax was changed and newly adopted as follows:

■ Change in taxation scheme of local income tax assessed on corporate income tax

(1) Tax base and Tax rate

< Before amendment >

Tax base	Tax rate
Calculated amount of corporate income tax	10%

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< After amendment >

Income tax base	Tax rate
Won 200 million or less	Tax base × 1%
Won 200 million ~ Won 20 billion	2 million won + excess over Won 200 million × 2%
Over Won 20 billion	Won 398 million + excess over Won 20 billion × 2.2%

(2) Tax Return and Payment

	Tax return filing deadline
Regular Tax Return	Within 4 months from the month in which the fiscal year end date falls
Consolidated Tax Return	Within 5 months from the month in which the consolidated fiscal year end date falls
Amended Tax Return	The same day when an amended corporate income tax return should be filed to the tax office

■ Collection of local income taxes on interest income paid to domestic companies is now mandated

Before amendment, when interest and dividend income are paid to domestic companies, the corporate income tax was withheld, but the local income tax was not. Under the amended local income law provisions, the local income tax shall be withheld on interest and dividend income paid to domestic companies, which is applicable to any interest or dividend income paid on or after January 1, 2015.

The payer who bears tax withholding obligations is required to collect 1/10 of the corporate income tax withheld from the payment and file the local income tax returns to the local tax office by the 10th day of the following month.

■ **Supreme Court Case in 2014**

Supreme Court Case (2014DU9554, 2014. 10. 30.)

The Supreme Court recently ruled that royalty income for use of patent which is not registered in Korea, but registered in the U.S., is not subject to withholding taxes in Korea. Such royalty income shall not be treated as Korean-sourced income according to the tax treaty between Korea and U.S.A.

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