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# Newsletter

July 2016

Bi-monthly Newsletter of Hanul Choongjung LLC

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*This newsletter is prepared and issued by Hanul Choongjung LLC 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.*

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■ **Korea and Czech Republic Agree to Amend Income Tax Treaty**

**Korea and Czech Republic Agree to Amend Income Tax Treaty**

Korea and the Czech Republic agreed to amend their income tax treaty during a recent meeting held in Seoul. The agreement was finally reached after three years since both governments started negotiations in 2013 on amending the existing treaty which took effect in 1995. This amended treaty will become effective only after both governments sign an official agreement and the national assemblies of both countries ratify the agreement.

Provided below are key points of the latest agreement.

- The tax rate for dividends under the treaty will be lowered from 10% to 5%.
- The tax rate for interest under the treaty will be lowered from 10% to 5%.
- The gains derived by a resident of a contracting state from the transfer of shares issued by a company being a resident of the other contracting state may be taxed in that other contracting state if more than 50% of the assets of the company in the other contracting state comprises of immovable property.

According to the Ministry of Strategy and Finance (MOSF), the latest agreement addresses Korea's commitment to comply with the minimum standards under the OECD BEPS (Base Erosion & Profit Shifting) project. The Korea-Czech income tax treaty will be the first of its kind that is amended to serve such commitment.

- The preamble of the treaty will make it clear that the purpose of the treaty is not only to avoid double taxation, but also to prevent double non-taxation.
- An anti-treaty shopping clause will be inserted to enable Korea or the Czech Republic to deny tax treaty benefits if obtaining the tax treaty benefits is the main purpose of a transaction or activity.
- A taxpayer will be allowed to apply for mutual agreement procedures with the competent authorities of both countries.

The latest agreement is expected to reduce the tax burden of Korean companies in the Czech Republic and vice versa. Also, the MOSF expects the revised tax treaty to contribute to reducing concern about tax treaty abuses.

■ **Filing of Interim Corporate Income Tax Return Filing due by August 31, 2016**

**Filing of Interim Corporate Income Tax Return Filing due by August 31, 2016**

A resident corporation (and a nonresident corporation having a permanent establishment in Korea) is required to pay interim corporate income taxes within 2 months from the end of the first six months of each fiscal year. An Interim corporate income tax return must also be filed along with the tax payment. A

corporation with the December 31 calendar fiscal year-end must file the 2016 interim corporate income tax return no later than August 31, 2016.

**The interim corporate income tax return can be filed using either (i) the 1/2 method (that is, paying 1/2 of the corporate tax paid in the prior year) or (ii) the book-closing method (by closing the books of accounts of the corporation for the first six-month period and calculate interim corporate tax amount based on the financial results of such first six months).** When a corporation had not paid the corporate income taxes in the prior year due to tax loss or having no taxable income, only the option (ii) above should be applied. The calculation formula of interim corporate income taxes by using the book-closing method is as follows:

$$\begin{aligned} \text{Taxes payable} = & [\text{taxable income for interim period} \times 12/6] \times \text{tax rates} \times 6/12 \\ & - (\text{tax exemption/withholding taxes paid and taxes assessed for} \\ & \quad \text{the interim period}) \end{aligned}$$

If the interim corporate income taxes payable exceeds Won 10 million, such taxes can be paid in 2 installments as below. The second installment payment is due within 1 month from the end of the filing due date (2 months in the case of defined small and medium corporation).

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

- *1st installment is due together with the filing of the interim tax return within 2 months from the end of the first 6 months of each fiscal year (i.e., August 31 for calendar fiscal year-end).*
- *2nd installment is due within 1 month from the end of the filing due date (i.e., September 30 for calendar fiscal year-end).*

Unlike the annual corporate income tax return, there is no additional local income tax payable on interim corporate income tax liability.

**■ Recent  
Tax Ruling****Recent tax ruling*****Whether “foreign contractor tax” paid in Vietnam would be eligible for foreign tax credit (Jaekukjo-112, 2016.3.4)***

To avoid double taxation, foreign (non-Korean) tax credit shall be allowed (under certain limit calculated in proportion to the foreign sourced income) to a Korean resident company which paid income tax on foreign sourced income to the foreign tax authorities. In this connection, the Korean tax authority interpreted recently that the “foreign contractor tax” paid in Vietnam under the Vietnamese tax law shall not be included in the scope of Vietnamese taxes under the Korea-Vietnam tax treaty and Article 57 of the Corporate Income Tax Law for the purpose of foreign tax credit in Korea.

**■ Tax Tip  
– Branch  
profits tax****Tax Tip – Branch profits tax**

A Korean branch of a foreign company is taxed in the same manner as locally incorporated companies. However, repatriation of profit is differently treated between a local subsidiary and a Korean branch for the Korean tax purpose. Whereas dividend from a local subsidiary to its parent company is subject to income tax, repatriation of profit from a Korean branch to its head office may be or may not be subject to the branch profits tax (in addition to the normal corporate income tax on the annual taxable income) on the profit after taxes of a Korean branch depending on the tax treaties concluded with Korea.

The branch profits tax applies only to the Korean branches of foreign companies based in the countries that have a tax treaty with Korea which provides for taxation on branch profits.

On the other hand, if a foreign country does not impose branch profits tax on the branch of a Korean company in that country, the branch profits tax is not imposed in Korea on the profits of the Korean branch of a foreign company from that country on a reciprocal basis. The branch profits tax is calculated at 22% (including the local income tax) of adjusted taxable income or at a reduced rate pursuant to the relevant tax treaty. Based on the tax treaties concluded currently with Korea, no tax withholding is made on profits transferred to the head office located in countries other than Australia, Brazil, Canada, France, Indonesia, Kazakhstan, Morocco, Panama, Peru, Philippine, and Thailand (the branch profits tax is applicable for 11 countries currently).

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