한울회계법인
Hanul LLC

Newsletter

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Bi-monthly Newsletter of Hanul LLC

Smart decisions. Lasting value.

Contents

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.

Important South Korean Tax Reporting Requirements Coming Due

2021 annual corporate income tax return and local income tax return filing deadlines

Under the Corporate Income Tax Law (CITL), a company having a fiscal year ended December 31, 2021 should file the FY2021 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	- Within 3 months from the fiscal year-end
• Interim corporate income tax return	- Within 2 months after the first 6 months of each fiscal year
• Annual local income tax return	- Within 4 months 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
• Annual corporate income tax return - 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)
• Interim corporate income tax return - 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	KRW 10 million
	2nd installment	Excess over KRW 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.

Transfer pricing (TP) and BEPS requirements

Under the International Tax Coordination Law (ITCL), which governs the taxation of international transactions between taxpayers and overseas specially related parties (OSRPs), a company is obliged to submit the following documents for the transactions made with its OSRPs during the fiscal year to the relevant tax office within 6 months from the fiscal year-end:

a. Report on the method of arm's length price determination
b. Schedules of international transactions with OSRPs
c. Summarized Profit and Loss Statement of OSRPs

In relation to the BEPS requirements, multi-national enterprises (MNEs) which meet the following conditions are also required to submit the Combined Report of International Transactions (CRIT) which is comprised of three elements (Local file, Master file, and CbC report).

<table>
<tr><th>CRIT</th><th>Local file and Master file</th><th>CbC report</th></tr>
<tr><td>Condition</td><td>• Domestic corporations and foreign corporations with a domestic place of business that satisfy the following criteria:

a. Annual gross sales of an individual entity exceed KRW100 billion; <u>AND</u>

b. Annual overseas specially related party transaction exceeds KRW 50 billion.</td><td>• In the case where the ultimate parent company is a domestic company or a resident of Korea, the CbC reporting obligator is the domestic parent company preparing the consolidated financial statements of a multinational group whose consolidated revenue exceeds KRW 1 trillion during the preceding fiscal year.

• In the case where the ultimate parent company is a foreign company or a non-resident of Korea, the CbC reporting obligator is a Korean affiliated company of a multinational group whose consolidated revenue exceeds 750 million Euros (or equivalent) in the preceding fiscal year if any of the following conditions are met:

a. There is no obligation to submit a CbC report under the laws and regulations of the country where the ultimate parent company is located; <u>OR</u>
b. There is no arrangement for the exchange of CbC report information between South Korea and the country where the ultimate parent company is located; <u>OR</u>
c. The Korean affiliated company did not submit CbC Reporting Notification within 6 months from the end of each fiscal year (e.g., by June 30, 2022 for the Korean company having the fiscal year ended December 31, 2021).</td></tr>
<tr><td>Due date</td><td colspan="2">Within 12 months from the end of each fiscal year (e.g., <u>by December 31, 2022 for MNEs having the fiscal year ended December 31, 2021</u>).

*CbC Reporting Notification: within 6 months from the end of each fiscal year</td></tr>
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- **2021 individual income tax return filing deadline (due by May 31, 2022)**

Residents, regardless of their nationalities, are subject to Korean income tax based on worldwide income including global income (employment income, business profits, dividend, pension, interest, rental, and other miscellaneous income), severance pay and capital gains.

However, under the revised Individual Income Tax Law (IITL), in the case where the period that a foreigner, who is a tax resident of Korea, has his address or abode in Korea does not exceed 5 years in aggregate during the past 10 years from the end of the concerned tax year, his/her foreign source income earned from January 1, 2009 shall be taxed in Korea only if such income is paid in Korea or such income is remitted into Korea.

Taxpayers making monthly tax payments and having only one source of worldwide income (i.e., either Class A or Class B) are generally not required to file a global income tax return since the employer (for Class A income earners) or the Class B taxpayers' association (for Class B income earners) finalizes the individual's tax liability at the end of the year for and on behalf of the employee concerned. Taxpayers having more than one source of income, however, are required to file a global income tax return for the year and pay taxes due on such income on or before May 31 of the following year, or prior to permanently leaving Korea.

The filing of 2021 annual individual income tax return is coming **due on May 31, 2022** together with necessary tax payments.

■ Statutory Social Insurance Tips in 2022

- **Rate change for the statutory national health insurance and long-term care for the elderly in 2022**

Effective from January 1, 2022, the insurance rate of the statutory national health insurance has been increased from 6.86% to **6.99%** of monthly salary income (excluding non-taxable income). Employer and employee portion each has risen from 3.43% to 3.495% each. The insurance rate of the long-term care for the elderly (which is the surcharge of the national health insurance) has also been increased from 11.52% to 12.27% of the national health insurance premiums.

As an example, if an employee’s monthly average taxable salary is KRW 5,600,000, the employee portion of the national health insurance and the long-term care for the elderly insurance premiums are calculated as follows:

(Korean Won)

	2021	2022
National health insurance	5,600,000 * 3.43% = 192,080	5,600,000 * **3.495%** = 195,720
Long-term care insurance	192,080* 11.52% = 22,128	195,720* **12.27%** = 24,015

The total national health insurance rate including the long-term care for the elderly rate will be 3.9238% for employer and employee, respectively.

- **Rate change for the statutory employment (unemployment) insurance in 2022**

Considering the financial status of the employment (unemployment) insurance fund and expectations for an economic recovery after COVID-19, the government will raise the employment insurance rate by 0.2% from 1.6% to 1.8% (employee and employer each bear 0.1% increase portion) **from July 1, 2022**.

Employment Insurance:	Before	From July 1, 2022	
Employee portion	0.8%	0.9%	
Employer portion	1.05% ~1.65%	1.15 ~ 1.75%	Vary depending on the number of employees

- **Annual settlement of the statutory social insurance premiums required in April 2022 (excluding national pension)**

Employers are required to perform annual settlement of statutory social insurance premiums in March of the following year after each calendar year end for the national health insurance, employment insurance and industrial accident compensation insurance, and reflect any overpayment (underpayment) during the year resulting from the annual settlement in April payroll accordingly. On the other hand, there is no annual settlement required for national pension.

For national health insurance, if the additional insurance resulting from 2021 year-end settlement is greater than the April 2022 insurance amount, employees may choose to pay by installment over 2 - 10 months starting from April 2022.

For your future reference, the statutory social insurance rates in effect for year 2022 can be summarized as below:

Social Insurances:	Employee portion	Employer portion	Total	Remark
National Pension (NP)	4.5%	4.5%	9.0%	Monthly contribution ceiling of Won 235,800 each
National Health Insurance (NHI) a. Health Insurance (HI) b. Long-term Care Insurance for the Elderly (HI-LTCI)	**3.495%** **12.27%**	**3.495%** **12.27%**	**6.99%** **12.27%(*)**	Monthly contribution ceiling of Won 3,653,550 each (*) Assessed at 12.27% of HI premium above
Employment Insurance (EI)	0.8%	1.05% ~1.65%	1.85% ~2.45%	Vary depending on the number of employees
Industrial Accident Compensation Insurance (IACI)	NIL	**0.60% ~18.6%**	**0.60% ~18.6%**	Vary depending on type of business

Recent Korean Tax Administration Trends

- **Promulgation and enforcement of the presidential decrees and enforcement rules of tax laws revised in late 2021**

The amended presidential decrees following the tax laws revised in late 2021 came into force starting February 15, 2022. The related enforcement rules are also under amendment process, which will be completed and promulgated in March 2022

Major items of proposed amendments of the enforcement rules include (1) specification of detailed scope of facilities for commercialized national strategic technology (i.e., three industrial sector of semiconductor, secondary battery and vaccine) that are subject to the highest tax credit rate of 6/8/16%, (2) expansion of scope of facilities for commercialized new growth or source technology area that are subject to higher tax credit rate of 3/5/12% compared to general facilities that are subject to the tax credit rate of 1/3/10% (i.e., new list for the carbon-neutral technology area and additional list for bio and resource circulation area, etc.), and (3) elimination of the duty-free shopping limit (currently USD 5,000 per Korean national at departure).

In addition, the government's bill includes the change in the base rate which is deemed as an arm's length interest rate ("safe harbor") applicable to loan transaction between a Korean resident and its OSRP, from the current LIBOR for each major currency + 1.5% to the index interest rate for each major currency (i.e., KOFR for KRW loans) + 1.5%.

● NTS performed tax audits on suspected cases of tax evasion by MNEs, etc.

On February 2, 2022, the National Tax Service (NTS) announced that it has performed tax audits on 44 suspected offshore tax evasion cases. The type of suspected tax evasions are as follows.

- Tax avoidance using international transactions with its overseas subsidiaries that are difficult for ordinary people to access (i.e., tunneling).
- Disguise of a Korean permanent establishment (PE) as a liaison office which has no tax obligation in Korea or concealment of a PE to avoid taxation on MNEs in fast growing industries such as semiconductors, logistics, equipment, etc.
- Tax avoidance by reducing Korean taxable income through inappropriate financial transactions between related parties such as liquidation of an overseas subsidiary prior to recovering the investment amount (i.e., loans) to the subsidiary or share transaction between related parties at higher or lower prices than their arm's length prices.

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

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