

# Newsletter

March 2024

Bi-monthly Newsletter of Hanul LLC



Smart decisions. Lasting value.

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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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## ■ Important South Korean Tax Reporting Requirements Coming Due (for the fiscal year ended December 31, 2023)

- **2023 annual corporate income tax return and local income tax return filing deadlines (due by April 1, 2024 and April 30, 2024, respectively)**

Under the Corporate Income Tax Law (CITL), a company having a fiscal year ended December 31, 2023 should file the FY2023 annual corporate income tax return **by April 1, 2024** 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.

Tax returns	Filing due dates
<ul style="list-style-type: none"> <li>• Annual corporate income tax return</li> </ul>	- <u>Within 3 months</u> from the fiscal year-end
<ul style="list-style-type: none"> <li>• Interim corporate income tax return</li> </ul>	- <u>Within 2 months</u> after the first 6 months of each fiscal year
<ul style="list-style-type: none"> <li>• Annual local income tax return</li> </ul>	- <u>Within 4 months</u> after the fiscal year-end

If the annual/interim corporate income taxes payable are over KRW 10 million or local income taxes payable is over KRW 1 million, companies are allowed to make tax payments in 2 installments as below:

Tax returns	Payment due dates
<ul style="list-style-type: none"> <li>• <u>Annual corporate income tax return</u> <ul style="list-style-type: none"> <li>- 1st installment (*)</li> <li>- 2nd installment (*)</li> </ul> </li> </ul>	<ul style="list-style-type: none"> <li>- Within 3 months from the fiscal year-end</li> <li>- Within 1 month from the end of the filing due date (Within 2 months for a small and medium-sized company)</li> </ul>
<ul style="list-style-type: none"> <li>• <u>Interim corporate income tax return</u> <ul style="list-style-type: none"> <li>- 1st installment (*)</li> <li>- 2nd installment (*)</li> </ul> </li> </ul>	<ul style="list-style-type: none"> <li>- Within 2 months from the end of interim period</li> <li>- Within 1 month from the end of the filing due date (Within 2 months for a small and medium-sized company)</li> </ul>
<ul style="list-style-type: none"> <li>• <u>Local income tax return</u> <ul style="list-style-type: none"> <li>- 1st installment (*)</li> <li>- 2nd installment (*)</li> </ul> </li> </ul>	<ul style="list-style-type: none"> <li>- Within 4 months from the fiscal year-end</li> <li>- Within 1 month from the end of the filing due date (Within 2 months for a small and medium-sized company)</li> </ul>

(\*) The amounts of installments shall be determined as follows:

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

(\*\*) The installment payment option is applicable for local income tax from the fiscal year starting on or after January 1, 2023.

● **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).

CRIT	Local file and Master file	CbC report
<b>Condition</b>	<ul style="list-style-type: none"> <li>• Domestic corporations and foreign corporations with a domestic place of business that satisfy the following criteria:               <ul style="list-style-type: none"> <li>a. Annual gross sales of an individual entity exceed KRW100 billion; <b>AND</b></li> <li>b. Annual overseas specially related party transaction exceeds KRW 50 billion.</li> </ul> </li> </ul>	<ul style="list-style-type: none"> <li>• 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.</li> <li>• 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:               <ul style="list-style-type: none"> <li>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; <b>OR</b></li> <li>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; <b>OR</b></li> <li>c. The Korean affiliated company did not submit CbC Reporting Notification within 6 months from the end of each fiscal year (e.g., <b>by July 1, 2024</b> for the Korean company having the fiscal year ended December 31, 2023).</li> </ul> </li> </ul>
<b>Due date</b>	Within 12 months from the end of each fiscal year (e.g., <b>by December 31, 2024</b> for MNEs having the fiscal year ended December 31, 2023).  *CbC Reporting Notification: within 6 months from the end of each fiscal year	

- **2023 individual income tax return filing deadline (due by May 31, 2024)**

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 2023 annual individual income tax return is coming **due on May 31, 2024** together with necessary tax payments.

For more details, our tax advisors will be able to provide a thorough consultation upon request.

## ■ Recent Korean Tax Law Changes

- **Amended Presidential Decrees of tax laws (February 29, 2024)**

The amended Presidential Decrees ("PD") of tax laws were proclaimed on February 29, 2024. There were a few changes compared to the original bill, and the major changes are as follows.

- Relaxation of requirements for deduction for family business succession in Special Opportunity Zones:

In the initial proposal, there were strict conditions for deduction for family business succession in a special opportunity zone: 1) the entire business operation had to be relocated to a special opportunity zone, or 2) the inheriting company had to be entirely located within a special opportunity zone to begin with.

However, the modified amendment allows for the deduction even if: 1) both the company's headquarter and its main office are either relocated to or already situated within a special opportunity zone, or 2) at least 50% of the company's total employees work at the premises located within the special opportunity zone.

- Clarification of VAT-exempt supply of personal services:

Personal services that are provided by an individual, corporation, unincorporated association or foundation, or other organization in its independent capacity, in exchange for consideration, shall be VAT-exempt. According to the initial proposal and the modified amendment, the scope of VAT-exempt personal services has been expanded and clarified.

Specifically, the following services are now included: 1) manpower supply services where an employee works for another company through a manpower supply contract; and 2) simple manpower supply services where an employee works on-site at a third-party's business, using their equipment and facilities, performing tasks like manufacturing. However, the modified amendment excludes temporary work agency services under the Employment Agency Workers Protection Act.

This amendment applies to staffing services provided on or after January 1, 2025.

### ● Amended Enforcement Rule of tax laws (March 22, 2024)

The amended Enforcement Rule of tax laws which was announced on February 26, 2024, was also proclaimed on March 23, 2024. Important changes are as follows.

- The interest rate applied on refund of overpaid national taxes or customs duties and deemed rental income from a rental deposit on real property as well as the standard interest rate for housing rental loans is raised from 2.9% to 3.5% per annum, reflecting the recent upward trend in market interest rates.

Applicable period:

- Refund of overpaid national taxes or customs duties: from the period after the effective date (i.e., March 22, 2024)
  - Deemed rental income: (Individual Income Tax Law / Value-Added Tax Law) from the taxable period to which the effective date belongs / (Corporate Income Tax Law) from the business year starting on or after January 1, 2024
  - Standard interest rate for housing rental loans: Borrowing after the effective date
- Specification of the guideline for affixing a dedicated license plate regarding company car expenses

In case the acquisition cost of a company car registered or rented after January 1, 2024, is KRW 80 million or more, and a dedicated light green license plate is not affixed, the company car expenses shall not be deductible.

- Adjustment of the useful life of molds

Industry-specific standards

→ Asset-specific standards (i.e., 5 years of useful life for instruments and fixtures, etc.).

- Establishment of details due to the introduction of Global Anti-Base Erosion (GloBE) rules

Key terms related to the introduction of GloBE rules, including the entities subject to the rules, adjustment methods for accounting net profit or loss, and income inclusion ratio calculation methods, etc., are defined in the Amended Enforcement Rule.

### ● Obligation to submit transaction details for overseas stock-based compensation

We have already introduced the obligation to submit details of overseas stock-based compensation transactions in our July 2023 newsletter. As the relevant PD of the tax law was proclaimed and the relevant reporting form was released, we would like to remind you of this new obligation with supplementary explanations.

Under Article 164-5 of the Individual Income Tax Law (IITL) and Article 216-5 of the PD of IITL, domestic corporations and domestic places of business in Korea of foreign corporations shall submit transaction details related to overseas stock-based compensation<sup>1</sup> received by employees from foreign parent companies<sup>2</sup> by March 10<sup>3</sup> of the following year of the taxable year in which the stock-based compensation is exercised or received.

\*1. Bonuses received in the form of stock options, stocks, or cash equivalent to the value of stocks

\*2. Foreign parent companies who directly or indirectly own 50% or more of shares with voting rights

\*3. In case of business closure or dissolution, the last day of the second month following the month in which the date of business closure or dissolution falls.

The transaction details of overseas stock-based compensation for employees stipulated under the relevant enforcement regulation of IITL (“the designated transaction details”) requires the following information:

- (i) Submitters' information
- (ii) Basic information on overseas stock-based compensation
  - Information on foreign parent companies granting or paying overseas stock-based compensation (i.e., company name, country, address, currency, etc.)
- (iii) Details of exercise or payment of overseas stock-based compensation
  - Personal information of employees concerned (i.e., name, resident registration ID number)
  - Category or type (Stock/Monetary, SO/ESPP/RSU/SAR/PSU)
  - Details of the grant, exercise, and payment of stock-based compensation (i.e., date, quantity exercised, exercise price, and the market price of exercising date)
  - Profits arising from such exercise and payment

This provision applies to those who have exercised or received stock-based compensation on or after January 1, 2024, which will result in an obligation to submit the designated transaction details **by March 10, 2025.**

## ■ Statutory Social Insurance Tips in 2024

### ● Annual settlement of the statutory social insurance premiums required in March/April 2024 (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 2023 year-end settlement is greater than the April 2024 insurance amount, employees may choose to pay by installment over 2 - 10 months starting from April 2024.

For your future reference, the statutory social insurance rates in effect for year 2024 can be summarized as below:

Social Insurances:	Employee portion	Employer portion	Total (Note c)	Remark
National Pension (NP)	4.5%	4.5%	9.0%	Won 265,500 of monthly contribution ceiling each
National Health Insurance (NHI)				Won 4,240,710 of monthly contribution ceiling each
a. National Health Insurance (NHI)	3.545%	3.545%	7.09%	
b. Long-term Care Insurance for the Elderly (LTCI) (Note a)	0.4591%	0.4591%	0.9182%	
Employment/Unemployment Insurance (UI)	0.9%	1.15% ~1.75%	2.05% ~2.65%	Vary depending on the number of employees
Industrial Accident Compensation Insurance (IACI) (Note b)	NIL	0.60%~ 18.5%	0.60%~ 18.5%	Vary depending on type of business

**(NOTE)**

- a. LTCI contribution is imposed based on the NHI premium following the calculation formula below:  $LTCI\ monthly\ contribution = NHI\ contribution \times [LTCI\ contribution\ rate\ (0.9182\%) / NHI\ contribution\ rate\ (7.09\%)]$



- b. Wage bond surcharge and asbestos victim relief surcharge of 0.6/1,000 and 0.04/1,000 shall be added to IACI rates additionally. Commute related injury surcharge is also assessed additionally at 1.0/1,000 regardless the business type starting from January 1, 2023.
- c. NP and NHI contributions are imposed based on monthly average wage income reported in the prior year and the UI/IACI are imposed based on the actual monthly wage paid in the current year).

## ■ HR Tips

### ● Childcare leave benefit, eligibility and maximum split use allowed

According to Article 19-4 (1) of the Equal Employment Opportunity and Work-Family Balance Assistance Act of Korea, employees can split childcare leave two times (for example, 6 months +3 months + 3 months), but the period of the childcare leave should not exceed one year in total (for one child). In addition, since November 19, 2021, employees are allowed to take childcare leave even during pregnancy. In such cases, the childcare leave used by a pregnant female employee shall not be included in counting the number of split uses of childcare leave, as extracted below.

Article 19-4 (1) of the Equal Employment Opportunity and Work-Family Balance Assistance Act,  
 (1) An employee may use childcare leave over several occasions, split into a maximum of two periods. In such cases, the number of childcare leave used by a pregnant female employee for maternity protection shall not be included in the number of split uses of the childcare leave. <Amended on Dec. 8, 2020; May 18, 2021>

We provide you with an example for better understanding as below.

- 1st period - A pregnant female employee takes childcare leave from Jan 1, 2024 ~ Jan 31, 2024 (for 1month)
- 2nd period - A pregnant female employee takes childcare leave from March 1, 2024 ~ March 31, 2024 (for 1month)
- 3rd period - A pregnant female employee takes childcare leave from May 1, 2024 ~ June 30, 2024 (for 2months)
- And the child is born on August 1, 2024

In this particular case, the childcare leave used prior to August 1, 2024 shall not be included in counting the number of split uses allowed, and hence, the remaining 8 months of the childcare leave period can still be utilized by splitting up to two times (for example, 2 months +3 months + 3 months = 8 months in total).

### ● Serious Accident Punishment Act updates

There is a recent change in the Serious Accident Punishment Act (the “SAPA”; “중대재해처벌법” in Korean) of Korea as summarized below.

Currently the SAPA which imposes criminal liability on individuals and entities responsible for “serious accidents” applies to large businesses with 50 or more employees. **From January 27, 2024**, however, the SAPA is extending its scope to **small businesses with 5 or more employees**. The SAPA aims to ultimately prevent major industrial accidents for employees by encouraging companies to strengthen safety and health measures through the establishment of innovative safety management systems.

Under the SAPA, “serious industrial accidents” means an industrial accident defined in subparagraph 1 of Article 2 of the Occupational Safety and Health Act, which causes **any of the following**:

- a. If 1 person or more have died.
- b. If 2 persons or more have been injured due to the same accident, requiring medical treatment for at least 6 months.

- c. If 3 persons or more have developed occupational diseases prescribed by Presidential Decree, such as acute poisoning attributable to the same hazardous factor, within 1 year.

According to the SAPA, business owners and management (persons responsible for the management of a business) have health and safety related obligations as given below:

1. Establishment and implementation of safety and health management system
2. Establishment and implementation of measures to prevent recurrence of accidents
3. Taking measures to comply with matters ordered for correction by central administrative agencies or local governments under the relevant statutes or regulations
4. Taking administrative measures necessary for compliance with safety and health related regulations

The SAPA imposes criminal liability on (i) business owners or management who fail to ensure the safety of their business operations and (ii) businesses or institutions that neglect their supervisory duties, as follows:

	Business owners or management	Businesses or institutions
In the case of death (above a.)	Imprisonment for minimum 1 year or more or a fine up to KRW 1 billion	Fine up to KRW 5 billion
In the case of injury (above b. or c.)	Imprisonment for not more than 7 years or a fine up to KRW 100 million	Fine up to KRW 1 billion

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

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