



Providing Excellence In Client Services

Newsletter

March 2014

Bi-monthly Newsletter of Horwath Choongjung LLC

Contents

- 2014 Tax Law Changes
- Update
- Korea-India Tax Treaty
- Korea-Peru Tax Treaty

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.

Contacts: H.S. Kim, S.Y. Kim or G.S. Sim at Tax&BPO Services of Horwath Choongjung [Tel: (82)(2) 316-6600, Fax: (82)(2) 775-5885, E-mail: post@crowehorwath.co.kr]

(You may find this newsletter and other items of interest at <http://www.crowehorwath.co.kr>)

**■ 2014 Tax
Law Changes
- Update**

The government proclaimed enforcement decrees and rules to implement 2014 tax law changes on February 21, 2014 and on March 14, 2014, respectively. We summarized below some of the major amendments/additions in respect of the enforcement decrees and rules to keep you updated.

1. Useful Life Change for Depreciation of Fixed Assets**(Article 29-1 of the Enforcement Decree of Corporate Tax Law (“CTL-ED”)
& Article 63-2-1 of the Enforcement Decree of Individual Income Tax Law (“IITL-ED”))**

Taxpayers were allowed to change the useful life of fixed assets for tax depreciation subject to an approval of the regional tax office when the assets are significantly impaired, worn out or damaged due to geographic and environmental nature or characteristics of the workplace.

Under the revised provisions of the CTL-ED and IITL-ED, reasons for such change are expanded to all nature or characteristics of the workplaces, not limited to the geographic and environmental characteristics.

The amended law is effective on or after February 21, 2014.

**2. Change of Revaluation Method for Foreign Currency Assets / Liabilities
(Article 76 of the CTL-ED)**

Corporations other than banks may elect to revalue their monetary assets / liabilities denominated in foreign currency using the statutory exchange rate as of the year end. Once a method was chosen, corporations were not allowed to switch to another method thereafter.

Under the revised CTL-ED, the taxpayers are allowed to change the revaluation method after five years have elapsed from the year of election.

The amendment shall be effective from the fiscal year commencing on or after January 1, 2014.

**3. Clarification of Tax Deduction for Accrued Severance Pay and
Retirement Pension Payments (Articles 44-2 & 60 of the CTL-ED)**

It was not clear as to how the tax deduction limit for accumulated severance pay shall be calculated when not all of the employees joined the retirement pension plan.

It was clarified by the revised CTL-ED that when the tax limit for accrued severance pay is determined by the actuarial valuation method, the portion of the severance payment liability for the employees who did not join the retirement pension plan shall be calculated by the method under the Employee Retirement Benefit Security Law (i.e., average monthly salary for each year of service).

The amendment shall be effective from the fiscal year commencing on or after January 1, 2014.

**4. Requirements for Medium-sized Enterprise Eligible for Tax Credits
(Articles 10, 22-2, 22-3, 22-4 & 23 of the Enforcement Decree of Special Tax
Treatment Control Law (“STTCL-ED”))**

Medium sized enterprises (“ME”) as well as small and medium sized enterprises (“SME”) may enjoy tax benefits such as tax credit for investments in research and development facilities, energy savings facilities, environment protection facilities, medicine quality control and improvement facilities, and certain investment boosting employment.

Under the revised STTCL-ED, the following conditions shall be satisfied for a company to enjoy tax credits granted to ME:

- (1) ME shall engage in the same category of business eligible to be an SME for tax purpose.
- (2) ME shall not be a member of a large conglomerate (i.e., Chaebol).
- (3) Average gross sales during the recent three years’ shall not exceed KRW 300 billion.

The new requirements shall be effective from the fiscal year commencing on or after January 1, 2014.

**5. Expanded Category of “Special Company” for Gift Tax
(Articles 31-1, 31-5, 31-6 of the Enforcement Decree of Inheritance and Gift
Tax Law (“IGTL-ED”))**

When a person is transferring assets or services for free or at a significantly lower price to a company having net operating loss or ceased operations (“Special Company; SC”), then the SC may not pay any corporate income tax while its equity value increases. If the person (i.e., the transferor) and the major shareholders of the SC are related parties, gift tax shall be imposed on such major shareholders for the benefits from the unfair transaction.

The IGTL-ED was revised to expand the category of SC to include any corporations owned by such major shareholders (owning 50% or more of the equity) even though the company does not have any net operating loss.

The amendment shall be effective on such transactions executed on or after February 21, 2014.

6. New Interest Rate for Tax Refunds
(Article 19-3 of the Enforcement Rules of Basic National Tax Law (“BNTL”))

Interest rate applied on national tax refund is reduced to 2.9%, down from 3.0%.

The amendment shall be effective for the period after March 14, 2014.

■ Korea-India
tax treaty

Korea-India Tax Treaty to be Amended

The Ministry of Strategy and Finance announced on January 16, 2014 that it had concluded to revise the tax treaty with India. The main contents of the agreements are as follows:

■ Mutual Agreement Procedure (MAP)

Mutual Agreement Procedure (MAP) will be provided for the countries to resolve on disputes over transfer pricing tax issues.

■ Tax Exemption on Profits from Transportation

Profits from international maritime transportation will be fully exempt (up from current 10%) in the source country.

■ Withholding Tax Rate to Decrease

Withholding tax rate on interests and royalties will be reduced to 10%, down from 15%.

■ Gains from Share Transfer

Gains derived from share transfer will be taxable in the source country if the transferor's ownership ratio is at least 5%.

■ Rules to Prevent Granting of Treaty Benefits

Exclusion rules will be added to the treaty in order to prevent the granting of treaty benefits to a person aiming to obtain treaty benefits for tax avoidance.

The foregoing amendments to the Korea-India Tax Treaty will become effective after the formal agreement of both countries and ratification of the National Assembly, respectively.

■ Korea-Peru tax treaty

Korea - Peru Tax Treaty Concluded

Korea - Peru tax treaty has been concluded for double tax relief. The treaty will be effective on or after January 1, 2015. The main contents of the agreements are as follows:

■ Tax Exemption on Profits from International Transportation

Profits from international aircraft and shipping transportation shall be fully exempt in the source country.

■ Withholding Tax Rate on Investment Income

Dividends:10%, Interests:15%, Royalties:15% (or 10% for furnishing technical assistance).

■ Tax Exemption on Gains from Transfer of Shares

Gains derived from transfer of shares shall not be taxable in the source country except in the case that the transferor has held at least 20% of the total shares during the 12 months period preceding such transfer.

* * * * *

Horwath Choongjung LLC

Member Crowe Horwath International

PMAA Jaram Building, 16th Floor, 78 Mapodaero,
Mapo-gu, Seoul 121-815, Korea

TEL: (82)(2) 316-6600 FAX: (82)(2) 775-5885 E-mail:

post@crowehorwath.co.kr

Website: <http://www.crowehorwath.co.kr>

Horwath Choongjung LLC is a member of Crowe Horwath International, a Swiss association. Each member firm of Crowe Horwath International is a separate and independent legal entity. Horwath Choongjung LLC and its affiliates are not responsible or liable for any acts of Crowe Horwath International or any other member of Crowe Horwath International and specifically disclaim any and all responsibility or liability for Crowe Horwath International or any other Crowe Horwath International member.