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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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Recent Tax Treaty Developments

The following summarizes the recent tax treaty developments which Korean government has made with other nations.

Georgia-Korea Income Tax Treaty

The Korea-Georgia income tax treaty (which was officially signed on March 31, 2016) came into force on November 17, 2016, more than one and a half years after the treaty was initiated by both governments on June 3, 2015 and more than five years after both governments first started negotiations in April 2011.

The treaty is based on the Organization for Economic Cooperation and Development ("OECD") Model Tax Convention and includes the following key points.

- The taxes covered under the treaty include income tax, corporation tax, special tax for rural development, and local income tax for Korea, and profit tax and income tax for Georgia, respectively.
- Construction or installation project will be considered to constitute a permanent establishment if it lasts for more than nine (9) months.
- The treaty tax rate on dividends is 5% if the beneficial owner is a company (other than a partnership) which holds directly at least 10% of the capital of the company paying the dividends and 10% in all other cases.
- The treaty tax rate on interest and royalty is 10%.

Serbia-Korea Income Tax Treaty

The Korea-Serbia income tax treaty took effect on November 17, 2016 following ratification by the National Assembly on November 3, 2016. Both governments officially signed the treaty on January 22, 2016.

The treaty includes the following key points:

- The taxes covered under the treaty include income tax, corporation tax, special tax for rural development, and local income tax for Korea, and corporate income tax and personal income tax for Serbia, respectively.
- Building site or construction or installation project will be considered to constitute a permanent establishment if it lasts for more than twelve (12) months.
- The treaty tax rate on dividends is 5% if the beneficial owner is a company (other than a partnership) which holds directly at least 25% of the capital of the company paying the dividends and 10% in other cases.
- The treaty tax rate on interest is 10%.
- The treaty rate on royalty is 5% on payments received as consideration for the use of, or the right to use, any copyright of literary, artistic or scientific work including cinematograph films or films or tapes used for radio or television broadcasting and 10% on payment received as consideration for the use of, or the right to use, any patent, trade mark, design or model, plan, etc.

Turkmenistan-Korea Income Tax Treaty

The Korea-Turkmenistan income tax treaty took effect on November 26, 2016 following ratification by the National Assembly on September 7, 2016. Both governments officially signed the treaty on April 13, 2016.

The treaty includes the following key points:

- The taxes covered under the tready include income tax, corporation tax, special tax for rural development, and local income tax for Korea, and tax on profits(income) of juridical persons and tax on income of individuals for Turkmenistan, respectively.
- Building site or construction or installation project will be considered to constitute a permanent establishment if it lasts for more than twelve (12) months.
- The treaty tax rate on dividends, interest, and royalty is 10%.

● Brunei-Korea Income Tax Treaty

The Korea-Brunei income tax treaty signed on December 9, 2014 was ratified by the National Assembly on September 7, 2016 and came into force on October 14, 2016. The treaty is the first agreement of its kind between the two countries. The treaty will apply to the taxes covered from January 1, 2017.

The treaty includes the following key points:

- The treaty shall apply to income tax, corporation tax, special tax for rural development, and local income tax for Korea, and income tax and petroleum income tax for Brunei, respectively.
- Dividends are taxable at a maximum rate of 5% if the beneficial owner is a company (other than a partnership) that directly holds at least 25 % of the capital of the payer company. In all other cases, a 10% rate applies.
- Interest and royalty payments may be taxable at 10% in the country of source.
- If a building site or construction or installation project exists for a period of more than twelve (12) months, it would constitute permanent establishment.

● Amended Protocol to Poland-Korea Income Tax Treaty

The protocol to amend the income tax treaty between Korea and Poland came into force on October 15, 2016 following the ratification by the National Assembly on September 7, 2016. This is the first amendment of the protocol since the treaty became effective in February 1992. The amended protocol will apply to the taxes covered from January 1, 2017.

Major points of the revised protocol include:

- Taxes covered under the treaty are income tax, corporation tax, special tax for rural development, and local income tax for Korea, and personal income tax and corporation tax for Poland, respectively.
- The withholding tax rate on royalties will be lowered from 10% to 5%.
- Gains derived by a resident of a contracting state from the sale of shares, deriving more than 50% of their value directly or indirectly from immovable property situated in the other contracting state, may be taxed in that other contracting state.
- The amended provision on dependent personal services stipulates that remuneration derived by a resident of a contracting state in respect of an employment exercised in the other contracting state shall be taxable only in the first-mentioned state if the recipient is present in the other state for a period or periods not exceeding in the aggregate 183 days in any twelve-month period commencing or ending in the fiscal year concerned (compared with the aggregate 183 days in the fiscal year concerned before the amendment).

■ Agreement on Automatic Exchange of Financial Account Information between Hong Kong and Korea

The Ministry Of Strategy and Finance (“MOSF”) announced that Korea and Hong Kong signed a bilateral agreement on the automatic exchange of financial account information in Hong Kong on January 23, 2017. The agreement will come into force when it is ratified by the National Assembly.

Based on the agreement, the tax authorities of both countries will collect the information on financial accounts in the contracting state held by residents of the other contracting state and will annually exchange the collected information from 2019.

The type of information to be exchanged will include:

- Personal identification information (e.g. name, address, tax identification number);
- Financial account information (e.g. account number, name of financial institution where the account is set up); and
- Other financial information (e.g. outstanding balance at financial accounts and amount and type of income such as interest and dividends).

The agreement on automatic exchange secured the measure to exchange financial information on a regular basis and enhance the level of information to be exchanged for the purpose of preventing offshore tax avoidance.

Korea executed with US the agreement on automatic exchange of financial account information in 2015 and has exchanged the information from 2016. Korea also plans to exchange the information from 2018 with Singapore based on the agreement executed in 2016. While making efforts to obtain financial information through the Multilateral Competent Authority Agreement ("MCAA") on Automatic Exchange of Financial Account Information signed in October 2014, Korea will continuously make efforts to execute bilateral exchange agreements with 45 countries in 2017 including the Netherlands, Belgium and Ireland, and will seek to extend these efforts to 31 additional countries from 2018 and onward, according to the MOSF.

■ Filing of 2016 annual individual income tax return (due on May 31, 2017)

Korean citizens and foreigners who are considered to be residents for Korean tax purposes are subject to taxation on worldwide income derived from sources both inside and outside of Korea. The income includes annual income [employment (earned) income, business profits, pension, dividend, interest, and other income], severance pay, and capital gains.

A foreigner, who is a tax resident of Korea and has his address or abode in Korea not to 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 having more than one source of income are required to file an annual 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 2016 annual individual income tax return is coming due on May 31, 2017 together with necessary tax payments.

■ Tax tip - Non-deductible input VAT

The amount of VAT payable is computed by deducting the input VAT amount from the output VAT amount chargeable on the goods or services supplied by the taxpayers. The input VAT which exceeds the output VAT is refundable.

However, the following input VAT is not deducted from the output VAT:

(a) If the taxpayer has not received a VAT invoice, or has not recorded either the whole or a part of the necessary items to be recorded on the VAT invoice, or if the contents of the VAT invoices are proved to be different from the facts

(b) If a taxpayer has not submitted a summary of the VAT invoices of every supplier to the government, or has not recorded the whole or a part of the necessary items to be recorded in the schedule of the summary, or

if the contents of the schedule of the summary are proved to be different from the facts

(c) The input VAT on expenses that are not directly related to the business

(d) The input VAT on purchase, rent and maintenance of passenger cars (as defined in Article 1-2-3 of the Excise Tax Act) except for those used in transportation and car sales business

(e) The input VAT related to the VAT exempted business and land

(f) The input VAT related to entertainment expenses or other similar expenses

(g) The input VAT levied before the taxpayer's application of the VAT registration. However, if the taxpayer applies for VAT registration within 20 days after the end of VAT taxable period to which the date of supplying goods or services belongs, the input VAT belongs to the period from the start date of such taxable period to the application date shall be deductible from the output VAT

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

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