Newsletter

November 2017

Bi-monthly Newsletter of Hanul Choongjung LLC

Smart decisions. Lasting value.

Contents

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.

■ Individual Income Tax Exemption for Participants in the PyeongChang 2018 Olympic and Paralympic Winter Games

■ Individuals eligible for the Individual Income Tax Exemption

A non-resident who participates in the PyeongChang 2018 Olympic and Paralympic Winter Games (the “Games") or performs activities related to the Games operations, can apply to the PyeongChang Organizing Committee for the 2018 Olympic and Paralympic Winter Games ("POCOG") for exemption status from the Korean individual income taxation.

Individuals eligible to apply for the individual income tax exemption are as follows:

(1) Who participates in the Games or performs activities related to the Games operations
- Members, executives and staff of the foreign-domiciled legal entities (IOC and other Olympic related organizations)
- Athletes, coaches, trainers, referees, and technical officials
- Individuals participating in the Games or perform activities related to the Games operation including performers

(2) The following individuals are deemed to be non-residents even if they stay in Korea for 183 days or more (until December 31, 2018):
- Executives and staff of broadcasters holding exclusive rights (RHBs), Olympic Broadcasting Services (OBS)
- Executives and staff of Games timing and scoring company (OMEGA), Games management information system company (Atos)

■ Application procedure for the Individual Income Tax Exemption

(1) Eligible individuals shall fill out the information required on the application form and submit the application form together with the supporting documents to the relevant POCOG Functional Area (“FA”).

Required documents may include:
- Application for participating the Games or performing activities related to the Games operations (Korean or English)
- A photo copy of the passport
- Document for the proof of stay in Korea (e.g. Flight tickets, etc.)
- Official document proving the participation of applicant in the Games (e.g. Employment contract)

(2) Each (relevant) FA will collect the required documents including application for the individual income tax exemption and submit them to POCOG FIN on a regular basis.

(3) Status of the POCOG recognition will be notified to each FA.

■ Tax Tips

■ Limitation on deductible company vehicle-related expenses

For the company vehicle related expenses to be treated as tax deductible for corporate income tax purposes, the following conditions should be satisfied:

a. The company should purchase car insurance in the name of the company that allows only directors/employees of the company to drive the vehicles. Without such insurance, any company vehicle related expenses will be disallowed deduction; and
b. The company should maintain a detailed driving log for the reporting to the National Tax Service.

This driving log requirement is waived it the annual company vehicle related expenses are KRW 10 million or less for each vehicle.

Also, annual depreciation and loss on disposal of assets incurred in relation to a vehicle is allowed as deductible for up to KRW 8 million (KRW 4 million for a real estate rental business) for each vehicle.

■ Reporting requirements of transfer pricing ("TP") documentation

A company must submit the following TP documents together with its annual corporate income tax return within 3 months from the end of each fiscal year to the tax authorities:

- Report on the method of arm's length price determination
- Schedules of international transactions with Overseas Specially Related Parties ("OSRP")
- Summarized Profit and Loss Statements of OSRP

A company may omit submission of the "Report on the Method of Arm's Length Price Determination", if the company meets one of the following conditions:

- goods transactions (including both sales and purchase transactions) with its OSRP must not exceed KRW 5 billion in total AND service transactions (including both services rendered and received) with its OSRP must not exceed KRW 1 billion in total; or
- goods transactions (including both sales and purchase transactions) with its each OSRP must not exceed KRW 1 billion AND service transactions (including both services rendered and received) with its each OSRP must not exceed KRW 200 million.

Also, a company may omit submission of the "Summarized Profit and Loss Statement of OSRP", if goods transactions (including both sales and purchase transactions) with its concerned OSRP does not exceed KRW 1 billion AND service transactions (including both services rendered and received) with its concerned OSRP does not exceed KRW 200 million.

If a company does not submit the reports explained above within the filing due date and fails to submit the reports upon request of the tax authorities, a penalty up to KRW 100 million may be assessed.

■ Reporting requirements of Base Erosion and Profit Shifting ("BEPS")

In addition to the requirements of TP documentation, from FY2016, Multinational Enterprises ("MNE") 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 Country-by-Country ("CbC") report).

CRIT	Local file and Master file	CbC report
Conditions	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; and b. Annual overseas specially related party	• 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 KRW1 trillion during the preceding fiscal year.

	transaction exceeds KRW 50 billion.	• 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: c. There is no obligation to submit a CbC report under the laws and regulations of the country where the ultimate parent company is located; OR d. There is no arrangement for the exchange of CbC report information between South Korea and the country where the ultimate parent company is located.
Due date	Within 12 months from the end of each fiscal year (e.g. by December 31, 2017 for the MNE having the fiscal year ended December 31, 2016).	

In the case where the threshold condition of Local file, Master file, and CbC report is satisfied, MNE failing to submit such reports (in whole or in part) or found to have submitted incorrect information may be subject to penalties up to KRW 30 million.

■ Social Insurance News

■ Rate increase in the national health insurances starting from January 1, 2018

Starting from January 1, 2018, the national health insurance rate will be increased from 3.06% to 3.12% each for employee and employer, respectively. The rate for the long-term care for the elderly (also called "silver care") will also be increased from 6.55% to 7.38% (this silver care is assessed on the national health insurance premium while all other social insurances including the national health insurance are assessed on the monthly wage income reported in the prior year with applicable rates).

■ Change in childcare leave pay (government subsidy) under the amended Enforcement Decree of the Employment Insurance Act

In accordance with the amended Enforcement Decree of the Employment Insurance Act of Korea that came into force effective from September 1, 2017, there are notable changes in childcare leave pay (government subsidy) in Korea as summarized below.

The major changes include:

- For up to 3 months from the start date of childcare leave: employees may receive the childcare leave pay from the government agency in the amount equivalent to 80% of monthly normal wage as of the start date of childcare leave (minimum KRW 700,000 and maximum KRW 1,500,000).

- From the fourth month of childcare leave and until the last day of the childcare leave: employees may receive the amount equivalent to 40% of monthly normal wage as of the start date of childcare leave (minimum 500,000 and maximum KRW 1,000,000).

- If both parents take childcare leave for the same child in a sequential manner, the benefit for the first three months of childcare leave of the insured who took the second childcare leave shall be the amount equivalent to the monthly normal wage. In this case, the monthly ceiling shall be based on the following categories:
    1. If the child for whom the parents take childcare leave is their first child: KRW 1.5 million
    2. If the child is their second child: KRW 2.0 million

■ Amended Minimum Wages Act

Under the old Minimum Wages Act, employers are allowed to pay wages that are less than the legal minimum wage (defined) for their employees who are on probationary period and have worked for the company for less than three months with the reasoning that these employees are considered in the process of learning work.

However, under the amended Minimum Wages Act, since the simple labor duties do not require any particular training period or skill set, it clarified that the employer shall pay the full legal minimum wage to its employees in simple labor duties. This amended Minimum Wages Act will come into force effective from March 20, 2018.

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

KS Han, GS Sim or H J Son *at Tax & BPO Services of Hanul Choongjung LLC*

Hanul Choongjung LLC
Member Crowe Horwath International
Sindo Building, 10th Floor, 14 Teheran-ro 88-gil,
Gangnam-gu, Seoul 06179, Korea
TEL: (82)(2) 316-6600 FAX: (82)(2) 775-5885
E-mail: post@crowehorwath.co.kr
Website: http://www.crowehorwath.net/kr/

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