



Providing Excellence In Client Services

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Newsletter

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

- Proposed Tax Law Changes for 2016

Proposed Tax Law Changes for 2016

On August 6, 2015, the Ministry of Strategy and Finance (“MOSF”) has announced various tax law changes to be implemented from 2016. The proposed tax law changes will be finalized after the National Assembly passes the bill.

Previously, we had summarized the major tax law changes for 2016 in our September 2015 edition of Newsletter. In this edition, we introduce you one additional tax law change that will be relevant to foreign companies in Korea as follows:

- Annual deduction limit of tax loss carry-forward

Under the current corporate income tax law, tax losses can be carried forward for 10 years and fully deducted from taxable income. However, under the proposed revision, a company which is not classified as a Small and Medium-sized Enterprise (“SME”) will be allowed to utilize its tax loss carry-forward only within a certain limit. A deduction limit of the tax loss carry-forward for non-SME will be 80% of the taxable income of the fiscal year (excluding non-SME under a business rationalization plan, workout plan, etc.).

- Korea’s Tax Amnesty for Offshore Income and Assets effective from October 1, 2015

Korea’s Tax Amnesty for Offshore Income and Assets Effective from October 1, 2015

The MOSF has announced that a tax amnesty for offshore income and assets came into force with effect from October 1, 2015. The tax amnesty was passed by the National Assembly in December 2014 as part of the amendments to the International Tax Coordination Law. In general, Korean residents or corporations are subject to penalties under the tax laws and foreign exchange regulations of Korea if they do not disclose certain offshore income or assets. This tax amnesty will provide benefits including exemption from penalties (except for the penalty for non-payment at the rate of 0.3% per day) for taxpayers who make voluntary disclosures of undeclared offshore income and assets within a specified period.

The tax amnesty program has already been initiated by 15 OECD member countries including the US, UK, Germany, France, Australia, etc. and was found to be effective in securing tax revenue from offshore income sources. Korea’s tax amnesty is intended to provide taxpayers with a temporary relief ahead of its active participation in tax information exchange arrangements with a number of foreign countries.

To ensure effective implementation of the tax amnesty, the MOSF will form a joint taskforce with the competent government ministries including the Ministry of Justice, the National Tax Service (“NTS”) and the Customs Service, and undertake a subsequent amendment of relevant rules.

Major points of the tax amnesty include:

- Those who want to avail themselves of tax amnesty must make a voluntary disclosure during the six-month period from October 1, 2015 through March 31, 2016.
- The tax amnesty shall apply to Korean resident individuals and domestic corporations, and shall not apply to non-residents and foreign corporations.
- Affected income and assets include undeclared income arising from cross-border transactions or foreign sources which have previously been failed to be declared by the filing due date or have previously been underreported, unless their statute of limitations has expired. However, those which are already under tax audit or related criminal investigation will not be eligible for the tax amnesty.
- The voluntary declaration filings should be submitted to the governing regional tax offices within the voluntary declaration period ending March 31, 2016. Taxes due on the declared income along with the late payment penalty (0.03% per day) should also be paid within the voluntary declaration period.

For those taxpayers who make voluntary disclosures of undeclared offshore income and assets within the voluntary disclosure period, the tax amnesty will provide the exemption from tax penalties (excluding the penalty for non-payment) under the tax laws as well as penalties under the Foreign Exchange Transaction Law. In addition, they will not be subject to fines and certain sanctions such as the public disclosure of their personal information.

■ Tax tips - FAQ

Tax Tips - FAQ

■ Year-end settlement of exact payroll tax and employer’s obligation

During the year, employees are being withheld income taxes and local income taxes on salary and wage income through payroll on a monthly basis based on the Quick Tax Table of the NTS which is updated and announced every year.

In February of the following year after each year-end, employers are required to finalize tax liabilities of its employees (excluding daily workers) by performing year-end tax settlement of exact payroll withholding taxes (“연말정산” in Korean). Any overpayment (or underpayment) of payroll taxes based on the results of year-end

settlement should be adjusted in the February payroll as refunds (or additional withholding) and the year-end settlement report should be filed with the tax office by March 10 together with the February payroll.

For year-end settlement of exact payroll withholding taxes, employees are required to gather and submit supporting documents for income deduction and exemption claims in early January of the following year. Based on such income deduction and exemption documents submitted by employees, employers as tax withholding agents shall perform year-end settlement for each individual employee accordingly.

If an employee has salary and wage income only and pays finalized income taxes fully through year-end tax settlement, the employee fulfills his/her income tax reporting obligation and a global income tax return filing by May 31 of the following year will not be needed additionally. On the other hand, if an employee has, in excess of certain limit, other source of income other than salary and wage shall be required to file additionally a global income tax return by May 31 of the following year.

Income tax rates in effect for year 2015 and exemption and deduction claims allowed under the Individual Income Tax Law of Korea can be summarized as below.

- Individual Income Tax Rates

Annual taxable income (A)		Tax rates	
Over	Up to	From 2014	
W 0	W12,000,000	6%	(A) * 6%
12,000,000	46,000,000	15%	720,000 + [(A)-12,000,000]*15%
46,000,000	88,000,000	24%	5,820,000 + [(A)-46,000,000]*24%
88,000,000	150,000,000	35%	15,900,000 + [(A)-88,000,000]*35%
150,000,000		38%	37,600,000 + [(A)-150,000,000]*38%

* Local income tax is added at the rate of 10% on income tax liability.

- Exemptions and Deductions from Individual Income

- Basic allowance : Won 1,500,000 per person
- Earned income deduction:

Earned income (A)		Deduction rate	
Over	Up to	on excess	
W 0	W 5,000,000	70%	(A) * 70%
5,000,000	15,000,000	40%	3,500,000 + [(A)-5,000,000]*40%

15,000,000	45,000,000	15%	$7,500,000 + [(A)-15,000,000]*15\%$
45,000,000	100,000,000	5%	$12,000,000 + [(A)-45,000,000]*5\%$
100,000,000		2%	$14,750,000 + [(A)-100,00,000]*2\%$

· Additional allowances : Varies

Foreigner (non-Korean) employees are eligible for a flat income tax rate of 17% (plus 1.7% local income tax) instead of the progressive income tax rates (an application must be filed with the tax office separately). When choosing the flat income tax rate, however, the expatriates will not be allowed any other benefits including nontaxable income treatment, tax reduction and tax exemption relating to income taxes. As such, if the foreigner employee was applied the 18.7% flat rate during the year, there will be no adjustment required at year-end settlement. In general, for foreigner employee having annual salary and wage income of Won 120 million or more, applying the 18.7% flat tax rate will be more beneficial. For annual income of below Won 120 million, applying progressive tax rate and performing year-end settlement (with eligible income deduction and exemption claims) will be more beneficial.

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