한울회계법인
Hanul LLC

Newsletter

September 2019

Bi-monthly Newsletter of Hanul LLC

Smart decisions. Lasting value.

Contents

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.

■ Proposed South Korean Tax Law Changes in 2020

On July 25, 2019, the Ministry of Strategy and Finance (MOSF) of Korea announced the government tax reform proposals to be implemented from 2020. The proposed tax law changes will be finalized after the National Assembly passes the bill. We summarized the major proposed tax law changes in 2020 to keep you updated as follows.

< International Taxation >

● Taxation on royalties for patents registered outside of Korea

Under the proposals, in order to secure the Korean taxing rights on payments for use of patents registered outside of Korea, any payments for manufacturing know-how, technologies or information contained in patents that are used in manufacturing or production activities in Korea will be deemed to be Korean source royalty income even if the patents are not registered in Korea. It shall apply to payments made on or after January 1, 2020.

And also, in order to tax on compensation to overseas patent holder for infringement of a patent registered outside of Korea, such compensation will be classified as “other income” which shall be subject to 16.5% withholding income tax rate (15% plus 1.5% surtax). It shall apply to payments made on or after January 1, 2020.

● Strengthened taxpayer’s burden of proof regarding abusive transaction

Currently, burden of proof regarding abusive transaction is not specifically stated in the International Tax Coordination Law (ITCL) of Korea. Therefore, if the Korea tax authority applies “substance over form” principle to the taxpayer who enjoys tax treaty benefits unduly though a cross border transaction which has been indirectly made via a third party or two or more transactions, the burden of proof regarding such abusive transaction is on the Korean tax authority who challenges the abusive transaction.

Under the proposals, when a transaction reduces the tax liability by an amount specified in the Presidential Decree of the ITCL (e.g., 50%), the burden of proof is placed on the taxpayer to prove that the transaction has a valid business purpose, without an intent of tax evasion. If the taxpayer fails to prove, “substance over form” principle shall be applied to the transaction. This revision shall be effective from the tax year beginning on or after January 1, 2020.

● Totalization of ‘net capital gains’ from transfer of foreign shares

Currently, under the Individual Income Tax Law, capital gains and losses arising from transfer of taxable shares have been allowed to be offset dividing domestic shares and overseas shares. And the deduction for capital gains is Won 2.5 million per annum for each division.

Under the proposals, a taxpayer shall totalize the net capital gains from the transfer of domestic shares and overseas shares. In addition, the deduction of Won 2.5 million shall be applied to the totalized net capital gains. It shall apply to the transfer made on or after January 1, 2020.

< Other Items of Interests>

● Eased taxpayer burden on late tax return filing

Currently, a taxpayer who has filed a tax return by a statutory due date is allowed to file an amended tax return within a specified period, generally 5 years.

To provide self-correcting opportunity for a taxpayer who has filed the tax return after the statutory due date, the proposals shall allow a taxpayer to amend the tax return which was not filed by the statutory due date. This revision will be effective from the amended return filed on or after January 1, 2020.

In addition, currently there is a penalty reduction rate for late tax return filing of 20% or 50% depending on the period from the due date to the actual filing date. Under the proposals, the penalty reduction rate of 20% will be increased to 30% for the tax return filed after one month but within three months from the due date. This revision will be effective for the late return filing filed on or after January 1, 2020.

Current	Proposed Changes
■ Tax reduction rate for late tax return filing • Within 1 month: 50% • Within 6 months: 20%	■ Specified Tax reduction rate: • Within 1 month: 50% • **Within 3 months: 30%** • Within 6 months: 20%

● Increased threshold for deductible business car expense without car mileage log

Currently, the entire amount of expenses incurred for the use of business cars are deductible unless they exceed the threshold of Won 10 million per annum where a mileage log of the business car is not prepared.

Under the proposals, the threshold for deductible business car expense without car mileage log will increase from Won 10 million to Won 15 million. It will be effective from the tax year beginning on or after January 1, 2020.

● Reduction of securities transaction tax rate

To reduce transaction cost for the securities investors, the proposals include reduction of securities transaction tax rate from 0.5% to 0.45% for over-the-counter and unlisted securities transactions. The securities transaction tax rate on the listed securities traded in the designated stock exchange market has been lowered by 0.05% since June 3, 2019, current effective rate being 0.25% (including surtax) for the securities listed on KOSPI and KOSDAQ, through the revision of Presidential Decree of Securities Transaction Tax Law in Korea. Please be noted that special rules apply to the securities transactions of majority shareholders (defined).

This revision will be effective from April 1, 2020.

● Reduction of withholding income tax rate for the deferred retirement income

To encourage retiree to receive retirement benefit in the form of long-term pension scheme, the proposals include reduction of withholding income tax rate from 70% of withholding retirement income tax rate to 60% of withholding retirement income tax rate for the retirement income which will be received by long-term pension scheme for more than 10 years. This revision will be effective from the receipt of the pension on or after January 1, 2020.

■ Other Tips

- **Statutory employment insurance premium rate to be raised by 0.3% effective from October 1, 2019**

Premium rate for statutory unemployment insurance will be raised by 0.3% from 1.3% to 1.6% effective from October 1, 2019.

Before		October 1, 2019 and thereafter	
employee portion	employer portion	**employee portion**	**employer portion**
0.65%	0.65% ~ 1.25%	**0.80%**	**0.8% ~ 1.40%**

As a result of the rapid increase in payout of unemployment benefits to the unemployed in the wake of the business recession, the unemployment benefit reserves have hovered below the level prescribed in Article 84 of the Employment Insurance Act (the reserves of Won 5.5 trillion may be exhausted in the next five years by 2024 without insurance premium rate increase). This means that even if employees lose their jobs, there will be no fund available to pay for their employment benefits. This made it inevitable for the Korean government to raise employment insurance premiums.

- **Changes in maternity leave for husbands and reduced working hours during childcare period effective from October 1, 2019**

For maternity leave, employers should provide minimum 3 days and up to 5 days of maternity leave when requested by a male employee (for a child birth of his spouse), and the minimum 3 days of maternity leave should be the paid leave. But effective from October 1, the minimum 10 days of maternity leave should be the paid leave and the time to claim maternity leave is now extended from 30 days to 90 days from the date of child birth.

In addition, under the Equal Employment Opportunity and Work-Family Balance Assistance Act of Korea, employee who has a child of 8 years or under or attending the second grade or lower of an elementary school is currently entitled to take a maximum of one year of childcare leave in combination with the reduced working hours to be able to take care of his/her child. Employee can split childcare leave into two, but the period of the childcare leave should not exceed one year in total currently.

Employer may disallow childcare leave if (i) the service period with the company is less than 6 months prior to taking the childcare leave or (ii) the other spouse is already taking childcare leave for the same child.

Effective from October 1, however, even if maternity leave is fully used, reduction of working hours for childcare period is guaranteed for one year, and the unused maternity leave period can also be used for additional reduced working hours.

For example, (1) 1 year of maternity leave + 1 year of reduced working hours, (2) 6 months of maternity leave + 1 year and 6 months of reduced working hours, (3) 0 year of unused maternity leave + 2 years of reduced working hours can be possible.

- **Max limit of individual pension contribution for tax credit increased starting from October 2019**

All earned income taxpayers (including the self-employed and workers) were allowed to set up a private individual retirement pension (IRP) account since July 2017.

An individual retirement pension is a type of retirement pension plan that enables the pension holder to voluntarily accumulate retirement savings with his/her own money and annuitize such accumulated savings.

It is a retirement savings account that offers a tax deduction of up to Won 7 million per year for contributions paid by pension holders themselves currently.

Effective from Oct 1, 2019, those whose gross earned income is below the threshold of Won 120 million and who are aged 50 or older can take advantage of an increased tax credit for tax deductible pension account for three years as follows. This measure is to promote more IRP saving for those who will soon face retirement to be better prepared.

<table>
<tr><th rowspan="3">Comprehensive Income
(gross salary income)</th><th colspan="3">Contribution Limit to Pension Account for Tax Credit
(total limit in combination with statutory retirement pension)</th><th rowspan="3">Deduction Rate</th></tr>
<tr><th rowspan="2">Current Limit</th><th colspan="2">Amended Limit</th></tr>
<tr><th>Aged below 50</th><th>Aged 50 or older</th></tr>
<tr><td>Won 40 million or less
(Won 55 million)</td><td rowspan="2">Won 4 M
(Won 7 M)</td><td rowspan="2">Won 4 M
(Won 7 M)</td><td rowspan="2">Won 6 M
(Won 9 M)</td><td>15%</td></tr>
<tr><td>Won 100 million or less
(Won 120 million)</td><td rowspan="2">12%</td></tr>
<tr><td>Over Won 100 million
(over Won 120 million)</td><td>Won 3 M
(Won 7 M)</td><td colspan="2">Won 3 M (Won 7 M)</td></tr>
</table>

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

***KS Han, J W Choi, G S Sim, or S Y Lee** at Tax & BPO Services*

Hanul LLC
Member Crowe Global
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@crowe.kr
Website: http://www.crowe.kr

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