

Newsletter

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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.

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■ Proposed Korean Tax Law Revisions for 2023

The Ministry of Economy and Finance (MOEF) announced the government’s Korean tax reform bill on July 27, 2023

This tax reform bill aims to enhance government support in 1) promoting investment, employment, and domestic consumption as well as boosting venture and startup activities to revitalize the private-sector-driven economy; 2) reducing the living costs for low-and-middle-income households and providing support for small business owners and SMEs to aid in the recovery of public economy, 3) strengthening ability to respond to demographic and regional crises through tax incentives for marriage, childbirth, childcare, and retirement preparation as well as supporting Opportunity Development Zone(ODZ); and 4) creating a taxpayer-friendly environment with prompt dispute resolution and improving equity in taxation.

We summarize the major proposed tax law revisions which could be applicable to foreign-invested companies to keep you updated as below. Most of the tax law revisions we discuss below will come into force from the fiscal year starting, or income earned, **on or after January 1, 2024** unless indicated otherwise.

I. Corporate Income Tax

- **Expanded scope of national strategic technologies and new growth and source technologies¹**

Item	Current	Proposed
National Strategic Technologies	6 fields including semiconductors, batteries, vaccines, displays, hydrogen, future mobility	Addition of biopharmaceuticals (effective for expenses incurred after July 1, 2023)
New Growth and Source Technologies	13 fields including future cars	Addition of key technologies for improving energy efficiency, core mineral processing, and essential supply management technologies

**1. Applicable to higher tax credit rates compared to general R&D expenses or investments.*

- **Expanded deduction limit for corporate business promotion expenses (previously known as ‘entertainment expenses’) spent in traditional markets**

- The deductible limit for corporate business promotion expenses spent in traditional markets will be increased by an additional 10% of the ‘standard limit + limit base on revenue amount’.

However, expenses incurred in consumptive service businesses such as general bars will not be applicable.

II. International Tax

- **Change in the due date of filing claims for rectifications of non-taxation, tax exemption, or application of reduced tax rate under tax treaties**

- The due date of filing claims for rectifications of non-taxable, tax-exemption, or application of reduced tax rate under tax treaties will be changed from within 5 years from the last day of the month in which the date of withholding falls to within 5 years from the 10th day of the following month in which the date of withholding falls.

● **Shortened submission deadline for master file and local file**

- The deadline for submission of master file and local file will be shortened from within 12 months after the end of the fiscal year to within 6 months after the end of the fiscal year
- Even large corporations that submit a statement of international transactions, etc. as attachments to a local file shall separately submit a statement of international transactions, etc.

III. Value-Added Tax

● **Introduction of additional tax on non-registration for foreign electronic service providers**

- Under the current Value-Added Tax Law(VATL) in Korea, foreign entrepreneurs who provide electronic services to consumers in Korea (excluding cases where services are provided for the taxable business or tax-exempted business of a person whose business has been registered) shall register their business using simplified business registration within 20 days after the commencement date of the business.
- Under the proposed revision of VATL, If they fail to apply for simplified business registration, the tax authorities may register them ex officio and impose an additional tax equivalent to 1% of the supply value during the unregistered period.

IV. Individual Income Tax

● **Extension of the applicable period of the flat income tax rate (19%) for foreign workers**

- The applicable period shall be extended to December 31, 2028.
- The provision that grants tax exemption for benefits derived from providing company-provided housing for foreign workers eligible for the special flat tax rate will continue to be valid.

● **Extension of the applicable period of income tax reduction or exemption for employees of SMEs**

- The applicable period shall be extended to December 31, 2026.
- Computer academies and similar institutions are added to the eligible industries.

● **Temporary increase in the deduction rate for credit card spending at traditional markets and cultural expenses**

Deduction rate (%)	Current	Proposed
Traditional markets	40	40 (50% for amounts spent during April 1, 2023. ~ December 31, 2023)
Book purchases, performances, art museum and theater expenses	30	30 (40% for amounts spent during April 1, 2023. ~ December 31, 2023)

● **Introduction of obligation to submit transaction records for overseas stock-based compensation²**

- Establishment of the obligation for employers to submit transaction records related to overseas stock-based compensation.
- Domestic corporations and domestic place of business in Korea of foreign corporations shall submit transaction records related to overseas stock-based compensation received by employees from foreign parent companies by March 10 of the following year of the taxable period in which the stock-based compensation is exercised or received.

**2. Stock-based compensation: Bonuses received in the form of stock options, stocks, or cash equivalent to the value of stocks.*

V. Others

● Expanded reduction in underreporting penalty in amended customs returns

Reduction rate (%)	Current	Proposed
Within 6 months after the revision period	20	30
6 months to 1 year	10	20
1 year to 1 year 6 months	10	10

● Expanded tax benefits for investment in video contents

The tax credit rate for video contents production cost will increase as below.

Tax credit rate (%)	Current	Proposed		
		Increase in standard tax credit ⁽¹⁾	Establishment of additional tax credit ³⁽²⁾	Maximum tax credit ⁽¹⁾⁺⁽²⁾
Large Company	3	5	10	15
Medium-scaled	7	10	10	20
SMEs	10	15	15	30

**3. Application to contents with more than a certain percentage of domestic production costs.*

■ **Filing of Interim Corporate Income Tax Return due by August 31, 2023**

A resident corporation (and a nonresident corporation having a permanent establishment in Korea) is required to pay interim corporate income tax within 2 months from the end of the first six months of each fiscal year. An interim corporate income tax return must also be filed along with the tax payment. A corporation with the December 31 calendar fiscal year-end must file a 2022 interim corporate income tax return along with the necessary tax payment **no later than August 31, 2023.**

The interim corporate income tax return can be filed using either (i) the 1/2 method (that is, paying 1/2 of the corporate tax paid in the prior year) or (ii) the book-closing method (by closing the books of accounts of the

corporation for the first six-month period and calculate interim corporate tax amount based on the financial results of such first six months). When a corporation had not paid corporate income taxes in the prior year due to tax loss or having no taxable income, only option (ii) above should be applied. However, if a domestic corporation that is classified as a Small and Medium-sized Enterprise (“SME”) in the business year immediately preceding the relevant business year has the computed amount of tax less than KRW 500,000 (i.e., 50% of the previous year’s income tax is less than KRW 500,000), the company is not required to file the interim corporate income tax return.

The calculation formula of interim corporate income tax by using the book-closing method is as follows:

$$\text{Tax payable} = [\text{taxable income for the interim period} \times 12/6] \times \text{tax rates} \times 6/12$$

- (tax exemption/withholding taxes paid and taxes assessed for the interim period)

If the interim corporate income tax payable exceeds Won 10 million, such tax can be paid in 2 installments as below. The second installment payment is due within 1 month from the end of the filing due date (2 months in the case of SMEs (defined)).

If interim income tax payable is:		Installment payments can be broken down as below:
Over Won 10 million ~ up to 20 million	1 st installment	10 million
	2 nd installment	Excess over 10 million
Over Won 20 million	1 st installment	50% or more of tax payable
	2 nd installment	Remaining 50% balance

(Notes)

- 1st installment is due together with filing of the interim tax return within 2 months from the end of the first 6 months (i.e., August 31 for the calendar fiscal year-end).
- 2nd installment is due within 1 month from the end of the filing due date (i.e., September 30 for the calendar fiscal year-end) or within 2 months from the end of the filing due date in case of SMEs (i.e., October 31).

Unlike the annual corporate income tax return, there is no additional local (provincial) income tax payable on interim corporate income tax liability.

■ Foreign Exchange Regulation Updates

The MOEF announced the revision of Foreign Exchange Transaction Regulations (FETR) effective from July 4, 2023, to ease the foreign exchange transaction-related reporting requirements of individual/corporate taxpayers in Korea as summarized below.

- **Increased annual waiver threshold of supporting document submission requirements for overseas remittance and capital transactions**

To reduce the burdens in day-to-day foreign exchange transactions of individuals and companies, the government increased the annual waiver threshold of supporting document submission requirement for overseas remittances from USD 50,000 to USD 100,000 in aggregate per year. The threshold for prior reporting requirements for capital transactions will also increase from USD 50,000 to USD 100,000 per year. The existing requirement of designating a foreign exchange bank for overseas remittances and capital transactions remains unchanged.

● **Increased annual waiver threshold of ‘advance’ reporting requirements of large-scale foreign currency loan transactions with the MOEF**

Under the existing FETR provisions, for the large scale foreign currency loan transactions exceeding USD 30 million (in aggregate for the recent 12-month period from the loan reporting date), the Korean resident was obligated to file a report on such loan transactions in advance to the MOEF through its designated foreign exchange bank together with submission of a detailed statement of reason of receiving such large scale loan from the non-resident of Korea. For foreign currency loan transactions not exceeding USD 30 million, however, the Korean resident was allowed to execute such loan transactions by reporting in advance to its designated foreign exchange bank only (reporting to the MOEF can be omitted).

Under the amended FETR provisions that came into force from July 4, 2023, to ease the burden of advance reporting requirements to the MOEF, the government increased the annual waiver threshold for the MOEF reporting requirement from USD 30 million to USD 50 million and hence only the large-scale foreign currency loan transaction exceeding USD 50 million should be reported in advance to the MOEF. For large scale foreign currency loan transactions not exceeding USD 50 million, Korean residents may execute such loan transactions freely and report such loan transaction to its designated foreign exchange bank within 1 month from the date of receiving loan amount (reporting to the MOEF can be omitted).

■ **HR Tips**

● **Labor Law update on Minimum Wages**

The Ministry of Employment and Labor (MOEL) officially announced that the minimum hourly wage will increase from KRW 9,620 to KRW 9,860 effective from January 1, 2024 (the monthly minimum wage will be KRW 2,060,740 with 209 work hours under the labor laws of Korea). The requirement shall be applied equally across all industries.

	2023	2024	% increase
Minimum Hourly Wage	KRW 9,620	KRW 9,860	2.5%
Minimum Monthly Wage	KRW 2,010,580	KRW 2,060,740	

● **Overtime pay regulations under the Labor Standards Act of Korea**

Under the Labor Standard Act (LSA) of Korea, employers must grant a paid off-day to employees working on the statutory holiday (such as Workers' Day on May 1).

If an employee works on statutory holidays, the employer must pay an overtime payment of at least 50% of the ordinary wage under Article 56 (Overtime, Night-time, and Holiday Work) of the LSA, and the calculation for overtime pay on statutory holiday should be as below.

- (1) Overtime pay should be calculated at 150% of the hourly ordinary wage for the normal working hours (8 hours per day)
- (2) 200% for any overtime work between 18:00 ~ 22:00
- (3) 250% for overtime work after 22:00

For example, if an employee works for 9 hours on statutory holiday, the calculated overtime payment will be:

$$(8 \text{ hours} * 150\%) + (1 \text{ hour} * 200\%) = \underline{14 \text{ hours}}$$

In addition, Article 57 (Compensatory Leave System) of the Labor Standards Act stipulates that compensatory leave shall be granted in lieu of payment for holiday work.

For example, if an employee works for 8 hours on the statutory holiday, the employer may either pay an additional 12 hours of wages (equivalent to 150% of the 8 hours worked) or grant 12 hours of compensatory leave in lieu of payment (**MOEL Wage and Work Hour Policy Team - 2363, July 13, 2007**).

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

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