

# Newsletter

November 2020

Bi-monthly Newsletter of Hanul LLC



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## ■ Proposed South Korean Tax Law Changes in 2021

On July 22, 2020, the Ministry of Economy and Finance (MOEF) of Korea announced the government tax reform proposals to be implemented from 2021. The proposed tax law changes will be finalized after the National Assembly passes the bill. We summarized the major proposed tax law changes in 2021 to keep you updated as follows.

### ● Extension of the carryforward period for tax losses

Currently, tax losses incurred in a current year can be carried forward for the next 10 years. Under the proposal, the period for tax loss carryforward would be extended from the current 10 years to 15 years in order to relieve the tax burden of taxpayers including foreign-invested companies and support businesses that suffered from COVID 19 pandemics.

The proposed change would apply to tax losses reported on or after January 1, 2021.

### ● Elimination of the expense deduction method for indirect foreign tax

Currently, a domestic company including a foreign-invested company is entitled to choose either the tax credit method or the expense deduction method for the foreign taxes paid indirectly by its foreign subsidiary.

Under the proposal, the expense deduction method will not be allowed and only the tax credit method can be chosen.

The proposed change would be effective from the year beginning on or after January 1, 2021.

### ● Expansion of the circumstances under which an amended import VAT invoice can be issued

Currently, an amended import VAT invoice cannot be issued in the case where an importer files an amended import declaration knowing in advance that the tax base or the amount of customs duty will be determined or rectified by the head of a customs office.

Under the proposal, an amended VAT invoice can be issued even though an importer files an amended import declaration knowing that there will be determination and rectification of tax base or the amount of customs duty.

This proposal will be effective for the amended tax returns to be filed on or after January 1, 2021.

### ● Expansion of the scope of supply of goods that are exempted from VAT

Currently, the gifts provided to employees were exempted from VAT up to a value of KRW 100,000 per year. Under the amendment, the KRW 100,000 limitation applies per event (i.e., New Year's Day ("Seol-Nal"), Thanksgiving Day ("Chuseok") and other personal events).

The proposed change would be effective from the year beginning on or after January 1, 2021.

### ● Changes in the individual income tax exemption for foreign engineers

Currently, qualified foreign engineers are entitled to 50% exemption in income tax on the employment

income for 5 years (in the case where the engineers work in companies in materials, parts and equipment sectors, 70% exemption for the first 3 years and 50% exemption for the next 2 years). Under the proposal, while the qualification of foreign engineers will be strengthened, the scope of qualified R&D facilities will be expanded.

Under the proposal, qualified foreign engineers should have 1) a bachelor's degree in science or engineering with R&D work experience of at least 5 years or 2) a Ph.D. degree in science or engineering with R&D work experience of at least 2 years. Meanwhile, under the proposal, the scope of qualified R&D facilities will be expanded to include corporate research institutes or R&D department and government-funded R&D facilities or university-affiliated research institutes.

The proposed change shall apply to the employment agreements executed from the year beginning on or after January 1, 2021.

## ■ Tax Tips

### ● Reporting requirements of transfer pricing (“TP”) documentation

A company including a foreign-invested 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, 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	• In the case where the ultimate parent

	<p>corporations with a domestic place of business that satisfy the following criteria:</p> <ul style="list-style-type: none"> <li>a. Annual gross sales of an individual entity exceed KRW100 billion; and</li> <li>b. Annual overseas specially related party transaction exceeds KRW 50 billion.</li> </ul>	<p>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.</p> <ul style="list-style-type: none"> <li>• 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: <ul style="list-style-type: none"> <li>a. 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</li> <li>b. There is no arrangement for the exchange of CbC report information between South Korea and the country where the ultimate parent company is located; OR</li> <li>c. The Korean affiliated company did not submit CbC Reporting Notification within 6 months from the end of each fiscal year (e.g. by June 30, 2020 for the Korean company having the fiscal year ended December 31, 2019).</li> </ul> </li> </ul>
Due date	Within 12 months from the end of each fiscal year (e.g. <u>by December 31, 2020 for the MNE having the fiscal year ended December 31, 2019</u> ).	

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 per report.

## ■ HR Tips

### ● Increase in minimum wage from January 1, 2021

The Ministry of Employment and Labor (MOEL) announced that the minimum hourly wage in Korea will rise from KRW 8,590 to KRW 8,720. This change will take effect from January 1, 2021.

	2020	From Jan 1, 2021
Minimum hourly wage	<p><b>Won 8,590</b> (Won 1,795,310 minimum monthly wage with 209 work</p>	<p><b>Won 8,720</b> (Won 1,822,480 minimum monthly wage with 209 work</p>

	hours per month)	hours per month)
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The Minimum Wage Commission passed the proposal to set the minimum wage for 2021 at Won 8,720 per hour. This is an increase of Won 130 or 1.5% from this year's hourly minimum wage of Won 8,590. If translated into a monthly wage, this means Won 1,822,480 per month, an increase of Won 27,170 from this year (with 209 work hours per month including paid weekly holidays).

● **Third phase of the 52-hour work week legislation to be implemented from July 1, 2021 to the companies having 5 to 49 employees**

As announced earlier in 2019, the Korean government introduced the 52-hour work week legislation stipulating that the maximum work hours including overtime and holiday work shall be limited to maximum 52 hours per week in an effort to improve long working hours of the workers and their quality of life.

This 52-hour work week legislation is being implemented in different phases depending on company size with the first phase started from July 1, 2018 for the companies having 300 or more employees. The third phase will take effect **from July 1, 2021** that will be applicable to the companies having 5 to 49 employees.

For your reference once again, the implementation schedules for the third (final) phases are as below:

- 1st phase - 300 or more employees: July 1, 2018
- 2nd phase - 50 or more but less than 300: January 1, 2020  
(The grace periods for enforcing 52-hour work week will end as of December 31, 2020.)
- **3rd phase (final) - 5 or more but less than 50: July 1, 2021**  
(Extended work hours up to 8 hours will be allowed temporarily if there is a written agreement with the employee representative till December 31, 2022.)

■ **Social Insurance Changes in 2021**

● **Increase in the national health insurance and the long-term care insurance for the elderly starting from January 1, 2021**

Effective from January 1, 2021, the insurance premium rate of the National Health Insurance will be increased from 6.67% to **6.86%** of monthly salary income (excluding non-taxable income). Thus, each of employer and employee portion rises from 3.335% to **3.43%**, respectively.

In addition, the insurance premium rate of the Long-Term Care Insurance for the Elderly (surcharge of the national health insurance) will also be increased from 10.25% to **11.52%** of the National Health Insurance premiums.

With the monthly salary income excluding non-taxable income of KRW 5,600,000, the insurance premiums will increase as shown below for example.

	Before	From Jan 2021
National Health Insurance	5,600,000 * <b>3.335%</b> = Won 186,760	5,600,000 * <b>3.43%</b> = Won 192,080
Long-Term Care Insurance for the Elderly	186,760 * <b>10.25%</b> = Won 19,140	186,760 * <b>11.52%</b> = Won 21,510

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

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