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Hanul LLC

Newsletter

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Contents

■ Proposed Korean Tax Law Revisions for 2022

The finalized Korean tax reform bill was approved by the Cabinet Council on August 30, 2022 and further submitted to the National Assembly on September 2, 2022 for final approval.

We summarized the major proposed tax law revisions which could be applicable to foreign-invested companies to keep you updated as below.

Compared to the Korean tax reform proposals for 2022 which had been announced originally by the Ministry of Economy and Finance (MOEF), the grace period for the application of the revised dividend received deduction (DRD) rate for Korean holding companies is extended from two years (i.e., in 2023 and 2024) to four years.

● Adjustment of corporate income tax rates and bracket

- The top marginal tax rate would be lowered from 25% to 22%.
- Defined small and medium-sized enterprises (SMEs) and medium-scale companies (collectively "eligible SMEs") would be eligible for the reduced tax rate at 10%, except for the following cases.
  - A company carrying on consumption-oriented business (i.e., such as hotels, inns, etc.);
  - A company whose (1) main business is the real estate rental business or more than 50% of sales consist of its real estate rental income, interest, or dividend income, and (2) controlling shareholder owns more than 50% of total shares in the company.

Current		Proposed	
Tax base (KRW in millions)	Tax rate *	Tax base (KRW in millions)	Tax rate*
Up to 200	10%	**Up to 500**	**20% (10% only for eligible SMEs)**
200~20,000	20%	500~20,000	20%
20,000~300,000	22%	Above 20,000	**22%**
Above 300,000	25%		

* Local (provincial) income tax is separately imposed at 10% on the corporate income tax liability.

● Increase of deduction limit for losses carried forward

- In calculating the corporate income tax base, the deduction limit of losses carried forward would be increased from 60% to 80% of taxable income for the respective year.
- The deduction limit for SMEs remains unchanged at 100% of taxable income.

● Introduction of integrated employment tax credit

- The various tax credits and incentives regarding employment (i.e., the tax credits for enterprise increasing jobs, social insurance, female employees with career interruption, transition to full-time employment, and employees returning to their job after maternity leave) would be integrated into an 'integrated employment tax credit' as follows.
- (Standard tax credit) Number of increased employees x tax credit per person

Type	Tax credit per person (Unit: KRW in millions)			
	SMEs (applied for 3 years)		Medium-scaled (applied for 3 years)	Large company (applied for 2 years)
	Metropolitan area	Non-metropolitan area		
Other full-time employees	8.5	9.5	4.5	-
Regular youth*, the disabled, seniors aged 60 years or over, and career-interrupted female	14.5	15.5	8.0	4.0

* 15~34 years of age

- Tax credit claimed will be recaptured if the number of full-time workers decreases within two years after applying for the tax credit.

- (Additional tax credit) Number of increased employees x tax credit per person

<table>
<tr><th rowspan="2">Type</th><th colspan="2">Tax credit per person (Unit: KRW in millions)</th></tr>
<tr><th>SMEs
(applied for 1 year)</th><th>Medium-scaled
(applied for 1 year)</th></tr>
<tr><td>Non-regular employees transitioned to regular employees</td><td rowspan="2">13.0</td><td rowspan="2">9.0</td></tr>
<tr><td>Employees returning to work after parental leave</td></tr>
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- Tax credit claimed will be recaptured if the above-mentioned employee is terminated within two years from the date of transition or return.

Expansion of the criteria for exemption of interim corporate income tax payment

- Currently a Korean corporation which is classified as an SME in the immediately preceding year has the computed amount of interim corporate income tax of less than KRW 300,000 (i.e., 50% of the previous year's income tax payment is less than KRW 300,000) is not obligated to pay interim corporate income tax.

- This threshold of KRW 300,000 will be increased to KRW 500,000.

Additional document requests to foreign liaison offices

- Liaison offices of foreign (non-Korean) corporations will be required to submit additionally the aggregate table of invoices by purchasers.

Additional procedures and supporting document requirements for treaty exemption

- To apply for a tax exemption granted under the tax treaty, a residence certificate is required. In connection with this, foreign corporations will be required to provide additional documents related to the incorporation of a foreign corporation, business and Korean sourced income.

- In addition, the procedures will be updated as follows.
  - The Korean tax authorities have the authority to change a taxpayer's position if conditions to qualify for tax exemption are not satisfied, or information provided in the exemption application does not align with facts.
  - The Korean tax authorities may request a taxpayer to provide additional documents if the documents submitted are inadequate to assess whether the conditions to qualify for tax

exemption are satisfied.

- A payor of income may request to non-resident or foreign corporation to provide supporting documents to apply for non-taxation or tax exemption of Korean-sourced income.

● Additional exemption for submission requirements of transfer pricing documents

- Under the International Tax Coordination Law of Korea ("ITCL"), taxpayers conducting cross-border transactions with overseas specially related parties ("OSRP") are required to submit the following information.
  - Schedules of international transactions (with OSRP)
  - Summary Profit and Loss Statement of OSRP
  - Report on the method of the arm's length price determination for the intangible asset, service provision, and other transactions, respectively

- However, the submission requirements will be exempted if the following conditions are met.

  - Schedules of international transactions

Current	Addition in the tax reform bill
A Master File and a Local File are submitted	Or total transaction amount of goods, services, or intangible assets with OSRP does not exceed KRW 500 million, 100 million, or 100 million, respectively.

  - Summary Profit and Loss Statement of OSRP

Current	Addition in the tax reform bill
Transaction amount of goods and services with each OSRP does not exceed KRW 1 billion and 200 million, respectively	And transaction amount of intangible assets with each OSRP does not exceed KRW 200 million

  - Report on the method of the arm's length price determination

Current	Addition in the tax reform bill
Total transaction amount of goods and services with OSRP does not exceed KRW 5 billion and 1 billion, respectively	And total transaction amount of intangible assets with OSRP does not exceed KRW 1 billion
Transaction amount of goods and services with each OSRP does not exceed KRW 1 billion and 200 million, respectively	And transaction amount of intangible assets with an OSRP does not exceed KRW 200 million

● Penalty for non-submission of transaction documents for hybrid financial instruments

- Penalties would be applied for non-compliance with the requirement for submitting certain documents (i.e., a statement of adjustments to interest expenses concerning hybrid financial instruments).

- The penalties would be up to KRW 30 million per instrument for failing to submit a statement of adjustments to interest expenses; KRW 20 million for failing to comply with the requirements by the due date per hybrid financial instrument; and KRW 10 million for incorrect reporting per hybrid financial instrument.

Requirements to maintain transfer pricing-related documents in a domestic place

- New requirement for taxpayers to keep and retain transfer pricing-related documents which Korean tax authorities could request (e.g., an organizational chart, work allocation table, copies involving asset sale and purchase agreements) in a domestic place.

Introduction of global minimum tax rules

- The global minimum tax rules will become effective from 2024 in line with the OECD's Pillar Two for the purpose of preventing tax avoidance by multinational enterprise groups ("MNE groups") in the digital economy.

- This regulation will apply to MNE groups whose consolidated revenue is EUR 750 million or more in two or more of the last four (4) fiscal years.

- In case an MNE group which is subject to the global minimum tax rule is liable for taxes at an effective tax rate (Adjusted tax / Adjusted income) of below the minimum tax rate (15%) in a particular jurisdiction, member firms of the MNE group in Korea may be liable to pay additional corporate income tax for the difference between 15% (the minimum tax rate) and the effective tax rate applied in a particular jurisdiction as follows.
  - Adjusted tax: Total tax amount calculated based on the accounting corporate income tax expense of each member firm
  - Adjusted income: Total net income reflecting adjustments to the accounting net income of each member firm
  - Additional tax to be paid: (Minimum tax rate – effective tax rate of each jurisdiction) x tax base (adjusted income – 5% of the total amount of tangible assets and wages)

- The filing due date would be 15 months after the last day of the fiscal year. However, for the first year, the due date would be 18 months after the last day of the fiscal year (i.e., June 30, 2026, for a company whose fiscal year ends in December 2024).

Extension of income tax exemption period for foreign engineers

- Under Article 18 of the Korean Special Tax Treatment Control Law ("STTCL"), qualified foreign engineers are entitled to a 50% reduction in individual income tax on their employment income for five years from the first service year in Korea.

- The 50% reduction period will be extended from five years to ten years.

Abolition of the application period for special taxation for foreign employees

- Under Article 18(2) of STTCL, foreign employees can opt to apply the 19% flat tax rate for their gross salary income without applying any other income deductions, tax exemption, and tax credits.

- Currently, this special taxation for foreign employees could be applied only for five years from the first day of their work, but the existing five years of application period limitation will be abolished.

Reduction of securities transaction tax rate

	2022	2023~2024	2025 and after
KOSPI*	0.23%	0.15%	0.15%
KOSDAQ	0.23%	0.20%	0.15%

*2. Inclusive of special tax for rural development of 0.15%

■ HR Tips

● Introduction of "3+3 joint childcare leave system" and increase of childcare leave pay

The government has introduced "3+3 joint childcare leave system" as part of efforts to create a better environment for married couples on employment in raising their children and increase birth rate in Korea.

Under this 3+3 joint childcare leave system, effective from January 1, 2022, if both parents on employment take their childcare leave concurrently or successively for the same child within 12 months of childbirth, the government has increased the childcare leave pay for both parents on employment for the first 3 months as summarized below (to be eligible to receive this increased childcare leave pay, the start date of childcare leave of the second parent taking successive childcare leave shall fall on January 1, 2022 or after).

Month	Cases	Before	From Jan 2022
1st to 3rd months	If only one of the parent take childcare leave	− 80% of ordinary wage (up to KRW 1.5 million per month)	− Remain unchanged
	If both parents take childcare leave	− First parent taking childcare leave: 80% of ordinary wage − Second parent taking childcare leave: 100% of ordinary wage (up to KRW 2.5 million per month)	− First parent taking childcare leave: **100% of ordinary wage** − Second parent taking childcare leave: **100% of ordinary wage (up to KRW 3 million per month for each parent as below)** (1) 3 months for mother + 3 months for father: up to KRW 3 million per month for each (2) 2 months for mother + 2 months for father: up to KRW 2.5 million per month for each (3) 1 month for mother + 1 month for father: up to KRW 2 million per month for each
4th to 12th months	In either case	− 50% of ordinary wage (up to KRW 1.2 million per month)	− **80% of ordinary wage (up to KRW 1.5 million per month)**

In addition to the childcare leave pay increase for the first 3 months, the childcare leave pay for the 4th to 12th months of childcare leave will be raised to 80% of ordinary wage (up to KRW 1.5 million per month).

Until 2021, the government agency held 25% of the childcare leave pay during the leave period and paid this withheld amount to the employee at the time when 6 months elapsed from the date the employee returned to his/her work. However, under the 3+3 joint childcare leave system, the 25% post-payment system is not applied starting from 2022.

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

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