

Newsletter

September 2024

Tax & BPO Updates / South Korea

**Smart decisions. Lasting value.**

*Hanul LLC, a member firm of Crowe Global, is a major accounting firm in South Korea. The **International Business Group (IBG) at Hanul LLC** specializes in Tax & BPO services as well as assurance and business advisory services tailored specially for foreign investors.*

*We provide a wide range of services designed to meet the needs of companies considering foreign investment in Korea. Our services include: 1) **Corporate Administrative Services**, offering support from business entity establishment to liquidation and corporate secretarial services; 2) **Payroll, Social Insurances and HR Advisory Services**; 3) **Accounting and Financial Compliance Services**, including cash disbursement and bank account management; 4) **Tax Compliance and Advisory Services**, and 5) **Assurance and Business Advisory Services**. For companies considering foreign investment into Korea, we can be of your best assistant.*

This bi-monthly newsletter aims to provide foreign investors with Tax & BPO updates in South Korea, as well as other related subjects of special interests to foreign investors.

Contents

- **Proposed Korean Tax Law Revision for 2024 – Finalized by the Government**
- **Korean Local Tax Law Revisions for 2024**
- **Statutory Social Insurances Tips**
 - Waiver or payment deferral of four statutory social insurances available during maternity/childcare leaves
 - Statutory social insurance assessment cut-off date of the new hire
 - Statutory social insurance participation obligations by visa type
 - Minimum 6-month sojourn period required for regional-based national health insurance enrollment for foreigners in Korea
- **HR Tips**
 - Withholding tax calculation process for bonus months
 - Probationary period for employees on contract terms
- **Doing Business Guide**
 - Statutory audit requirements (non-listed companies)

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.

Hanul LLC is a member of Crowe Global, a Swiss Verein. Each member firm of Crowe Global is a separate and independent legal entity. Hanul LLC and its affiliates are not responsible or liable for any acts or omissions of Crowe Global or any other member of Crowe Global. Crowe Global does not render any professional services and does not have an ownership or partnership interest in Hanul LLC.

■ Proposed Korean Tax Law Revision for 2024 – Finalized by the Government

The finalized Korean tax reform bill was approved by the Cabinet Council on August 27, 2024.

In comparison to the Korean tax reform proposals for 2024 initially announced by the Ministry of Economy and Finance (MOEF), there is a significant modification that is worth noting as below.

- In the initial tax reform proposals for 2024, it was originally proposed that taxpayers would be allowed to submit an amended tax return for a tax refund request if certain tax credits are underreported. Under the finalized proposal, taxpayers will also be allowed to submit an amended tax return for a tax refund if foreign tax credit amounts are underreported.

The approved Korean tax reform bill was submitted to the National Assembly on September 2, 2024.

For the summary of major proposed tax law revisions that could be relevant to foreign-invested companies, you may also refer to our July 2024 edition of Newsletter.

■ Korean Local Tax Law Revisions for 2024

The Ministry of the Interior and Safety (MOIS) announced on August 13, 2024 the government's Korean local tax reform bill. This will be finalized and submitted to the National Assembly in October 2024.

The local tax reform bill prioritizes four main areas: stimulating economic growth, ensuring public livelihood stability, promoting a taxpayer-friendly environment, and developing an efficient and rational taxation system.

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

● Clarification of the scope for tax refund request due to subsequent reasons or grounds

Currently a taxpayer may file a tax refund request within 90 days from the date the taxpayer becomes aware that any of the following grounds have occurred even after the original due date for the tax refund request has expired.

1. Where the transactions or acts, etc., which formed the basis of the calculation of the tax base and tax amount in the initial return, determination, or correction, are confirmed to be different by a decision related to a request for adjudication, a claim for examination under the Board of Audit and Inspection Act, or a judgment in a lawsuit (including settlements or other actions with the same effect as a judgment).
2. Where mutual agreement under a tax treaty is contrary to the details of the initial return, determination or correction.
3. Where grounds prescribed by Presidential Decree(*) arise after the statutory deadline for reporting of the relevant local taxes expires.

(*) Grounds prescribed by Presidential Decree include:

- ① For the purposes of the original return, decision, or correction, where the permission or other disposition of the authorities is canceled regarding the validity of transactions or actions, etc. which served as the basis for calculation of the tax base and amount of tax.
- ② For the purposes of the original return, decision, or correction, where a contract is rescinded regarding the validity of transactions or actions, etc. which served as the basis for calculation of

the tax base and amount of tax, due to the exercise of the rights of rescission, or is either canceled or rescinded due to a compelling ground which occurred after the conclusion of the relevant contract.

- ③ For the purposes of the original return, decision, or correction, where the tax base and amount of tax could not be calculated due to seizure of books, records, and documentary evidence, or other compelling ground, but the relevant ground ceases to exist later.

Under the tax reform proposal, a taxpayer may file a tax refund request due to subsequent reasons or grounds not only for self-assessed local taxes, but also for generally collected local taxes.

- **Rationalization of the commencement date for accruing interest on local income tax refund**

Currently for a tax refund request, interest on refunds begins to accrue starting from the day following 30 days after the date of filing the refund request.

Under the tax reform proposal, it is proposed that interest on refunds of local income tax paid be calculated starting from the day following the local tax payment date, regardless of whether a tax refund request has been filed.

- **Increase in the threshold for the resident tax employee portion**

Currently, a monthly resident tax employee portion is levied when the monthly average salary paid to employees exceeds the threshold of KRW 150,000,000.

Under the tax reform proposal, to alleviate the burden on small business owners, the threshold amount for exemption from the resident tax employee portion will be increased to KRW 180,000,000 by reflecting the wage growth rate.

- **Abolition of individual income tax on financial investment income**

The proposal suggests eliminating the individual local income tax on financial investment income, which is set to take effect in January 2025. This change is in line with the proposed removal of individual or corporate income tax on such income.

■ **Statutory Social Insurances Tips**

We provide you with helpful tips for some of the most frequently asked questions from foreign companies doing business in Korea involving statutory social insurance matters as summarized below.

- **Waiver or payment deferral of four statutory social insurances available during maternity/childcare leaves**

Under the relevant statutory social insurance laws of Korea, employees who are on maternity leave or childcare leave may be eligible for waiver or payment deferral of the 4 statutory social insurances, which vary depending on the type of social insurance as summarized below.

	Maternity/childcare leave period <u>without pay</u>	Maternity/childcare leave period <u>with pay</u>
National Health Insurance (NHI)	Payment deferral allowed (See Notes)	Payment deferral allowed (See Notes)
National Pension (NP)	Waiver allowed	Waiver not allowed
Unemployment Insurance (UI)	Waiver allowed	Waiver not allowed
Industrial Accident Compensation Insurance (IACI)	Waiver allowed	Waiver allowed

(Notes)

- a. Only payment deferral allowed and no waiver allowed for NHI. Deferred payment amount shall be paid in lump-sum when an employee returns to work.
- b. As the NHI authority will assess only the 'minimum' monthly premium for the period payment deferral is applied for (not based on the gross salary base of the employee), it will be more favorable to both employee and employer if the employee applies for the payment deferral of NHI during the maternity or childcare leave period.
- c. Maternity leave pay or childcare leave pay received from the government agency shall not be considered as salary or wage.
- d. During the 90-day maternity leave period, for the first 60 days, the company shall pay the difference between the ordinary wage an employee received from the company before her maternity leave and the maternity leave pay received from the Korea Worker's Compensation & Welfare Service under the provisions of the Employment Insurance Act (Won 2,100,000 per month max) if such maternity leave pay received is less than the ordinary wage of employee concerned. Even though the company is not statutorily required to pay the difference for the last 30 days, most foreign companies choose to pay the difference voluntarily.
- e. During childcare leave period, employees receive childcare leave pay from the government agency under the provisions of the Employment Insurance Act for 80% of his/her ordinary wage up to Won 1.5 million per month for 12 months. The government agency holds 25% out of the childcare leave pay during the leave period and pays this withheld amount to the employees at the time when 6 months elapse from the date the employee returns to his/her work.

● Statutory social insurance assessment cut-off dates for the new hire

Starting from 2024, in accordance with the revision of the relevant provisions under the statutory social insurance laws of Korea to unify the monthly assessment process of 4 different statutory social insurances (national pension, national health insurance, unemployment insurance, and industrial accident compensation insurance), the statutory social insurance assessment cut-off date for the new hires has changed to the 1st day of each month.

With this change, only the worker who join the company on the 1st day of month shall be assessed the statutory social insurance premiums from the 1st month of hire. Workers who join the company after the 1st day of month shall be assessed the statutory social insurance premiums starting from the second month and onward. In April of the following year after each year-end, the social insurance authorities perform year-end settlement of statutory social insurances based on the actual gross salary base and assess any under-billed insurance premiums during the year.

Before this revision, for workers who joined the company in mid-month, the unemployment insurance (UI) and industrial accident compensation insurance (IACI) was assessed on a pro rata basis for the 1st month of hire.

● **Statutory social insurance participation obligations by visa type**

Statutory social insurance participation obligations of foreigners(non-Korean) working in Korea may vary depending on the visa type, which can be summarized by most common visa types of foreigners in Korea as below:

Visa type		National Health insurance (NHI)	National Pension (NP)	Unemployment Insurance (UI)	Industrial Accident Compensation Insurance (IACI)	
D-2	Student 유학	Mandatory	NOT mandatory	NOT mandatory	Mandatory	
D-7	Expatriate 주재원		Mandatory	Mandatory		May depend on the principle of reciprocity
D-8	Investment 기업투자					May elect to participate at workers' discretion
F-4	Overseas Korean 재외동포					NOT mandatory
D-10	Employment 구직					

(Notes)

As an exception, however, foreigner(non-Korean) workers from the US, France, Poland, Slovakia, Austria, Spain, Turkey, Luxembourg, and Norway may be eligible for waiver from mandatory IACI participation provided that he/she submits the Certificate of Coverage issued by his/he home country's social security authority.

Unless a foreign(non-Korean) employee concerned is eligible for waiver of statutory social insurances and submits waiver applications with proper supporting documents thereof required by the Korean social insurance agencies, the foreign employee shall be subject to participation in the statutory social insurance programs in Korea mandatorily.

● **Minimum 6-month sojourn period required for regional-based national health insurance enrollment for foreigners in Korea**

The statutory National Health Insurance of Korea are categorized into (1) "business-based" plan and (2) "regional-based" plan. All foreigner(non-Korean) employees working at a workplace in Korea shall be enrolled as "business-based" plan subscribers mandatorily from the day they start employment in Korea (Day 1) unless they are exempt from such requirements.

On the other hand, if a foreigner (non-Korean) is self-employed or unemployed, he/she can be registered as "regional-based" plan subscribers only after such foreigner fulfills the minimum 6 months of sojourn period in Korea (extended from 3 months under the revised National Health Insurance Act in December 2018 as the government was concerned about foreigners coming into Korea specifically with the intent to work for a short period of time and take advantage of medical benefits unfairly).

■ **HR Tips**

● **Payroll withholding tax calculation process flow for bonus months**

When bonus is paid in addition to an employee's regular salary, income tax and local income tax shall be calculated following the calculation methodologies below as required under the relevant provisions of

Individual Income Tax Law (IITL) of Korea.

Calculation methodologies = withholding taxes are calculated based on the average salary for the taxable period of January 1 (or employment start date for the new hire) through the month in which the date of payment of bonus falls multiplied by the number of months of the given period less taxes already withheld. In the case where a taxpayer receives bonus two times or more in the same taxable period, withholding tax for the second payment and onward shall be calculated for the period counting from the following month after the month the previous bonus is paid through the month in which the date he/she receives another bonus falls thereafter.

● Probationary period for employees on contract terms

Under the Labor Standards Act (LSA) in Korea, an employer shall be allowed to include a probation period in the employment contract only if the employment contract period is minimum 1 full year or longer.

During the 3-month probationary period, an employee can be dismissed without 30-day advance notice of dismissal as allowed under the LSA (Article 26, Advance Notice of Dismissal). Even in this case, however, the termination notice should be made to the employee in writing in general and should include the reason and date of termination as required under the LSA (Article 27, Written Notification of Reasons for Dismissal) as extracted below.

■ Doing Business Guide

● Statutory audit requirements (non-listed companies)

Under the amended external audit and accounting regulations of Korea that came into force from November 1, 2018, a non-listed stock company (Chusik Hoesa) shall be subject to annual statutory external audit requirement in Korea if the company satisfies any of the following conditions as of the end of immediately preceding fiscal year.

- (1) Assets of KRW 50 billion or more
- (2) Sales of KRW 50 billion or more (shall be annualized if a company was in operation for less than 12 full months)
- (3) If meets 2 or more of the following conditions:
 - (i) Assets: KRW 12 billion or more
 - (ii) Liabilities: KRW 7 billion or more
 - (iii) Sales: KRW 10 billion or more
 - (iv) Number of employees: 100 employees or more

Previously Yuhan Hoesa was not subject to annual statutory external audit in Korea. However, under the amended regulations, Yuhan Hoesa shall also be subject to annual statutory external audit requirement **starting from November 1, 2019** if the company satisfies any of the following conditions as of the end of immediately preceding fiscal year.

- (1) Assets of KRW 50 billion or more
- (2) Sales of KRW 50 billion or more (shall be annualized if a company was in operation for less than 12 full months)
- (3) If meets 3 or more of the following conditions:
 - (i) Assets: KRW 12 billion or more
 - (ii) Liabilities: KRW 7 billion or more
 - (iii) Sales: KRW 10 billion or more
 - (iv) Number of employees: 100 employees or more
 - (v) Number of members: 50 members or more

A standard for large scale companies is also newly introduced in the amended regulations. Companies having KRW 50 billion or more of total assets or sales will no longer be treated as a small sized company and become subject to annual statutory external audit.

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

KS Han, GS Sim, John Park or SY 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: IBG@crowe.kr

Website: <http://www.crowe.kr>

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