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Newsletter

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Contents

- 2015 International Tax Coordination Law Changes
- Update
- Basic Local Income Tax Law
- Amendment
- Individual Income Tax Law
- Amendment
(Recalculation of 2014 year-end settlement)
- Recent Tax Rulings

This newsletter is prepared and issued by Hanul Choongjung LLC on a bi-monthly basis and intended to provide foreign investors with an update on tax law changes in 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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(You may find this newsletter and other items of interest at <http://www.crowehorwath.co.kr>)

■ 2015
International
Tax
Coordination
Law Changes
- Update

2015 International Tax Coordination Law Changes - Update

The government announced the following change to the Enforcement Regulations of International Tax Coordination Law (ITCL- ER) which came into force from the fiscal year starting on or after January 1, 2015.

■ Transfer Pricing Rules - Requirements for Submission of Summary Profit and Loss Statement of Overseas Specially Related Parties (Article 6-2 of ITCL - ER)

A company which meets the following conditions may not submit the summary profit and loss statement of overseas specially related parties (OSRP) under the previous regulations:

- (1) Goods transactions (both sale and purchase) with each OSRP shall not exceed Won 1 billion per year; AND
- (2) Service transactions (both rendered and received) with each OSRP shall not exceed Won 100 million per year.

However, under the revised ITCL- ER, the threshold of condition (2) above was increased to Won 200 million per year.

■ Basic
Local Income
Tax Law
- Amendment

Basic Local Income Tax Law - Amendment

The government announced the following amendment to the Basic Local Income Tax Law on May 18, 2015.

■ Extension of Period for Filing Amended Local Income Tax Return (Article 51-1 of Basic Local Income Tax Law)

The period for filing amended local income tax return to claim for refund of overpaid local income tax is extended to five years from three years from the date the taxpayer filed an initial or revised local income tax return. Such extension shall be applied to the amended local income tax return for which the previous three-year period is not yet expired as of May 18, 2015.

■ Maximum Limit in Penalty Assessment of Unpaid Taxes (Article 53-4 of Basic Local Income Tax Law)

The penalty assessment for unpaid taxes shall not exceed 75% of the underlying local income tax amount (currently, there is no limit). This new maximum limit will apply to penalties assessed on or after May 18, 2015.

■ Provision of Requested Information (Article 115 of Basic Local Income Tax Law)

If the delegated tax agent of a taxpayer requests for information needed to exercise taxpayer's rights, tax officials should provide the requested information under the amended local income tax law. Previously, information request can only be made by the taxpayer in person. This change is effective from January 1, 2016.

■ Individual Income Tax Law - Amendment (recalculation of 2014 year-end settlement)

**Individual Income Tax Law – Amendment
(recalculation of 2014 year-end settlement)**

An amended Individual Income Tax Law (IITL) was finally approved by the National Assembly on May 12, 2015 to be applied retroactively for earned income derived in 2014 in an effort to reduce tax burdens of employee taxpayers in Korea. With the passing of this bill, the National Tax Service issued a guideline on May 13 stating that the employer should perform recalculation of 2014 year-end settlement and pay any overpayment resulting from this recalculation to its employees first through the May payroll processing and report the recalculation results by June 10, 2015. Employers may then apply for refunds to the tax office or offset the overpayment against withholding taxes due for May 2015 when filing the report).

In consideration of the reporting due date of recalculation results of 2014 year-end settlement being June 10, 2015, the filing deadline of global income tax return for the taxpayers who have earned income other than salaries and wages in 2014 has also been extended from May 30, 2015 to June 30, 2015.

■ Recent Tax Rulings

Recent Tax Rulings

■ Performance-based compensation paid from Defined Contribution pension plan (Woncheon 276, 2014. 8. 5)

In the case where the remuneration based on performance is not paid to an employee, but deposited to his/her Defined Contribution pension account as an employer's contributions under the agreement on retirement pension plan of a company, which the employee will receive as part of the lump-sum retirement payment when he/she actually retires, such performance-based compensation included in the retirement payment will be taxed as retirement income, not earned income for work.

- Sales via Internet Portal Site based on Local Web Server (Seomyunbeopgu 1105, 2014. 10. 22)

In the case where a non-resident of Korea runs an internet portal site for sale of goods to Korean customer, while its web server is located in Korea, if the essential and significant part of the business activity such as a purchase order request, conclusion of a contract and invoice settlement is conducted via the internet portal site, such internet portal site is deemed as a permanent establishment in Korea and shall be subject to Korean taxes in the same manner as a domestic company.

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