



Newsletter

October 2008

This newsletter is prepared by Horwath Choongjung (Choongjung Accounting Corp.) 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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Please contact any of the following individuals with any inquiries or comments.

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

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Horwath Choongjung News

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1. Horwath Choongjung won Best Audit Award

At the 9th Annual Best Audit Award (“Award”) Presentation Ceremony (“Ceremony”) held on September 25, Horwath Choongjung Accounting Corp. (“HCAC”) won the Best Audit Award from the Korea Listed Companies Association. Only three of Big 4 accounting firms (PwC, KPMG and Deloitte) in Korea have been awarded so far, and this was the first time that a second-tier accounting firm like HCAC receives such honorable award.

At the Ceremony, Professor Man-Woo Lee, a chairman of review committee, explained the grounds for selecting HCAC as the winner of the Award by complimenting HCAC’s efforts and contribution in maintaining excellent audit quality as well as the high standard quality control without being warned of or demerited from the relevant authorities since its establishment.

Mr. Heung-Ju Hwang, the managing partner of HCAC, also presented his award speech stating that HCAC will continue to do its best to improve transparency of corporate accounting of Korea, and will make the best efforts to increase the rights of the listed companies in choosing their accounting firms related to an adoption of International Financial Reporting Standards (IFRS) and external audits.



Proposed Tax Law Changes

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We summarized below some of major proposed tax law changes to keep you up-to-date. Most of the tax law changes we discuss below is proposed to come into force effective from the fiscal year starting (or for payments or income earned) on or after January 1, 2009 unless indicated otherwise (please note that the tax rates provided below are exclusive of the resident tax).

1. Reduction in Corporate Income Tax Rates

According to the proposed changes to the Corporation Tax Law (“CTL”), the corporate income tax rates and the range of the tax brackets would be changed as below.

Tax base	Tax rates (FY2008)	Tax rates (FY2009)	Tax rates (FY2010)
KRW 200 million or less	11%	11%	10%
Over KRW 200 million	25%*	22%	20%

(Note) 10% of income tax will be imposed additionally as a resident surtax. The asterisked rate may also be reduced to 22% subject to sanctions by the National Assembly.

2. Reduction in Individual Income Tax Rates

Under the proposed Individual Income Tax Law (“IITL”), the income tax rates will be reduced gradually in order to relieve an individual taxpayer’s tax burden as shown in the following table.

Tax base	Tax rates (FY2008)	Tax rates (FY2009)	Tax rates (FY2010 and after)
KRW 12 million or less	8%	7%	6%
Over KRW 12 ~ 46 million	17%	16%	15%
Over KRW 46 ~ 88 million	26%	25%	24%
Over KRW 88 million	35%	34%	33%

(Note) 10% of income tax will be imposed additionally as a resident surtax. The rate reduction by 2% may be effected starting from FY2009 subject to sanctions by the National Assembly.



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3. Curtailment in Scope of Taxable Foreign Source Income earned by a Foreigner who is Tax Resident of Korea

Under the current IITL, a foreigner who is tax resident of Korea is liable for the income tax on foreign source income as well as on the Korean source income.

Under the proposed IITL, in the case where the period that a foreigner who is tax resident of Korea has his address or abode in Korea does not exceed 5 years in aggregate during the past 10 years from end of the concerned tax year, his foreign source income will be taxed in Korea only if such income is paid by the Korean entity or individual or such income is remitted into Korea.

4. Extension in Installment Period of Tax Payment for Small and Medium sized Companies

A company may elect to pay its corporate taxes on an installment basis if corporate income tax to be paid exceeds Won 10 million. Under the current CTL, upon such election, a company may pay a part (defined) of its corporate tax within one month (45 days for a small and medium sized companies) after the payment due date.

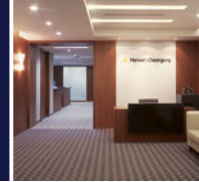
However, under the proposed CTL, a small and medium sized company (defined) will be able to pay a part (defined) of its corporate taxes within two months from the payment due date.

This extension of installment period will give relief from corporate income tax burden to the small and medium sized companies temporarily.

5. Extension of Penalty Tax Reduction Period for Amended Tax Return

Under the current Basic Law for National Tax (“BLNT”), in case where a taxpayer files an amended tax return voluntarily within 6 months from the statutory filing due date, the penalty taxes for the underreporting (or over-claim of refund) shall be reduced by 50%.

Under the proposed BLNT, however, such penalty tax reduction period will be extended up to 2 years from the statutory filing due date. In addition, the reduction ratios of penalty tax vary depending on the period from the statutory filing due date to amended tax return filing date as shown in the following table:



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Period from statutory filing due date	Penalty tax reduction ratio
Within 6 months	50%
Over 6 months ~ 1 year	20%
Over 1 year ~ 2 years	10%

6. Extension in Tax Loss Carry-forward Period

Under the current CTL, a company may carry forward its net tax losses to offset against future taxable income for up to five years from the fiscal year when the losses incurred.

However, according to the proposed CTL, the utilization period for the tax loss carry forward will be extended up to 10 years.

7. Mitigation of Criteria for Taxpayer-based VAT System

The Value-Added Tax (“VAT”) Law has required each business place of a company to be registered with a district tax office and to comply with various VAT obligations by each business place.

However, since January 1, 2008, if a taxpayer having the qualified ERP system (defined) obtains an approval from a district tax office, such taxpayer has been able to register itself and its branches with its district tax office as one business place and to comply with various VAT obligations by one registered business place (“Taxpayer-based VAT System”), not by each business place.

Under the proposed VAT Law, ERP requirements for Taxpayer-based VAT System will be abolished, and the taxpayer with more than one business places may register just one business place with the pertinent tax office without obtaining the approval from the tax office.

This tax law change is proposed to be effective from the VAT period that January 1, 2010 belongs to.



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8. Decrease in Flat Tax Rate for Foreign (non-Korean) Employees

Under the current Special Tax Treatment Control Law of Korea (“STTCL”), the foreign (non-Korean) executives or employees (“Foreign Workers”) are allowed to file their individual income tax returns by electing either to get additional 30% income deduction or to be applied flat tax rate of 17% on their gross salaries without getting any deductions.

Under the proposed STTCL, the flat tax rate for Foreign Workers will be reduced to 15% in the case where they elect the flat rate taxation for their income tax returns.

9. Reduction in Withholding Tax Rate related to Interest or Dividend for foreign (non-Korean) Company

Under the current CTL and IITL, in the case where a Korean company pays an interest or dividend to a foreign (non-Korean) company or a non-resident having no permanent establishment in Korea, the Korean company shall withhold taxes on the foregoing interest or dividend income at the rate of 25% (excluding 10% resident surtax).

According to the proposed CTL and IITL, the withholding tax rate on the interest and dividend income will be reduced to 20% (excluding 10% resident surtax).

Separate from the foregoing, the reduced withholding tax rates under the tax treaty should be applied in preference to the withholding tax rate under the CTL and IITL.

10. Extension of Due Date for Filing and Payment for Securities Transaction Tax

Under the proposed Securities Transaction Tax Law, in case of the unlisted share transfer, the due date for filing the return and for tax payment will be extended from the 10th of the month following the month of share transfer to two months from the last day of the quarter in which the share transfer incurs. Based on the proposal, the due date for securities transaction tax will coincide with the due date for capital gains tax.

11. Introduction of issuing Electronic VAT Invoices

Under the proposed VAT Law, a corporate taxpayer will be required to issue the electronic VAT invoices and to submit a list of such electronic VAT invoices directly to the National Tax Service through the on-line system.

This proposed tax law change will come into force on or after January 1, 2010.



Revised Tax Law Changes

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1. Revised Thin Capitalization Rule for Financial Institutions

Under the International Tax Coordination Law (“ITCL”), if a foreign invested company borrows from a Foreign Controlling Shareholder (“FCS”) or a third party with a guarantee from the FCS, and such borrowings exceed 300% of its equity, the interest expense on the debt exceeding 300% of the FCS’ share of the borrower’s equity will not be deductible.

According to the revised Presidential Decree of the ITCL, the debt-to-equity threshold ratio for the thin capitalization rule for financial institutions was eased again to 600% from 300%.

This revised thin capitalization rule will come into force from the fiscal year in which October 7, 2008 falls.



New Tax Rulings

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1. Application of Withholding Tax to Beneficial Owner of Foreign Partnership

In the case where a company in Korea pays income to a foreign partnership, if such income is attributed not to the foreign partnership, but to the Korean partner company in substance, the payer of income should withhold the tax considering the Korean partner company as the owner of the income (Kukje Sewon-1355.2008.7.29)

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