



Newsletter

April 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. HCCC Won Various Strategic Consulting Projects

Horwath Choongjung Consulting Corp. ('HCCC') has recently won various strategic consulting projects for various government agencies such as Korea Hydro and Nuclear Power Corp., Korea Fire Equipment Inspection Corp. and Korea Chamber of Commerce and Industry. The details of projects won are as follows:

- Korea Hydro and Nuclear Power Corporation - Review and Amendment of Mid- and Long-Term Financial Forecasts
- Korea Fire Equipment Inspection Corporation – Consulting project for establishing and designing Information Strategic Planning (ISP) and Activity Based Costing system
- Korea Chamber of Commerce and Industry - Restructuring of the Vocational Training Program operated by Human Resources Development Department

HCCC will continuously strive to align its capabilities to provide various strategic consultation services to its clients in their core businesses.

2. Welcoming a New Partner, Mr. Sung-Hee Roh

Mr. Sung Hee Roh (CPA in Korea and U.S.A), who had previously worked for PwC Samil Accounting Corp. of Korea as a director, joined Horwath Choongjung as a partner from April 1, 2008. With PwC Samil, he has acquired various professional expertises in financial audit and transactional service. He also worked at PwC Dallas office in U.S. on global assignments and acquired an MBA degree from the University of Dallas. At Horwath Choongjung, Mr. Roh will be in charge of FAS (Financial Advisory Service) division.



2008 Tax Law Changes – Presidential Decree

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We summarized below some of the major changes to keep you up-to-date on tax law changes (Presidential Decree) in Korea.

1. Expansion on Scope of Foreign Tax Credit

Under the revised Presidential Decree of the Corporation Tax Law of Korea (“CTL”), when a Korean company (a mother company) receives a dividend from its foreign subsidiary (i.e., a daughter company) while the daughter company also receives a dividend from its subsidiary (i.e., a grand daughter company), the mother company can additionally claim a foreign tax credit for up to 50% of the foreign taxes paid by its grand daughter company.

This rule applies to the mother company that has held 20% or more voting share in its grand daughter company indirectly through its daughter company and the daughter company has held 20% or more voting shares in the grand daughter company for the consecutive 6 months or more as of dividend declaration date of the grand daughter company.

This tax law change became effective from the dividend a Korean company receives since February 22, 2008.

2. Reduction in Debt-Equity Threshold Ratio of Financial Institution for Thin Capitalization Rule

Before revision, the debt-equity threshold ratio of financial institution for thin capitalization was 6 to 1. However, this ratio has reduced to 3 to 1 as is for the companies in other industries under the Presidential Decree of the International Tax Coordination Law of Korea. This tax law change became effective from a fiscal year starting on or after January 1, 2008.

3. Change in Tax Treatment of Translation Gain/Loss of Foreign Currency Denominated Assets/Liabilities and Evaluation Gain/Loss of Foreign Currency related Derivatives

Under the revised Presidential Decree of the CTL, except for certain financial institutions (defined), the translation gain/loss of the foreign currency denominated assets or liabilities and evaluation gain/loss of the foreign currency related derivatives shall be denied for tax purposes. This tax law change became effective for the evaluation gain/loss incurred since February 22, 2008.

Before revision, translation gain/loss of all of the foreign currency denominated assets or liabilities was allowed for tax purposes, whereas only evaluation gain/loss of the foreign currency related derivatives held for hedge purpose was allowed.



New Tax Rulings

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1. Eligibility of R&D Tax Credit associated with Cost Sharing Arrangement

A new interpretation was released from the National Tax Service (“NTS”) regarding the R&D tax credit associated with a cost sharing arrangement (*Seomyon2team-282, 2008.2.14*). According to the ruling, in the case where a local company bears certain portion of costs which were incurred and allocated based on the cost sharing agreement for co-development, the costs may be entitled to the R&D tax credit under the Special Tax Treatment Control Law.

2. Change in Tax Treatment on Signing Bonus

The NTS has changed recently its position related to the tax treatment on signing bonus through a new ruling (*Seomyon2team-125, 2008.1.17*). Specifically, if a company gives its employee signing bonus in advance on the condition that the employee should work for a certain period of time (otherwise should return the certain amount of bonus to the company), the NTS issued a ruling that the signing bonus paid in advance should not be treated as a loan offered which is subject to taxation on deemed interest.

Previously, a company should withhold income tax on the deemed interest from its employee who was given the signing bonus in accordance with the old ruling (*Seomyon1team-402, 2006.3.29*).

3. VAT Payment by Proxy for Services provided in a Foreign Country

According to the recent ruling from the NTS (*Seomyon3team-255, 2008.2.1*), even if services are provided in a foreign country by a foreign (non-Korean) company which does not have a permanent establishment in Korea, if the outcome is used in Korea, the local service recipient (except for taxpayers that use the services for its VAT taxable business) should be subject to the VAT payment by proxy obligation as well under the VAT Law.

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