



Newsletter

January 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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(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. **Awarded as One of top five Member Firms with a Remarkable Growth at HI Annual Meeting**

The annual meeting of Horwath International (HI) was held at Intercontinental Hotel in Montreal, Canada from November 2 to 6, 2007.

Horwath Choongjung was selected as one of top five member firms that have accomplished remarkable growth among all the member firms around the world and awarded by Mr. Frank Arford, CEO of HI. Horwath Choongjung has been selected for the same award for the recent consecutive 3 years.

During the annual meeting, various programs were held for presentations and discussions of the current status and visions on the topics of audit, tax, corporate financing, risk management, leisure and tourism industry.

3. **HCCC organized the '2007 Korea Sustainability Management Conference'**

Horwath Choongjung Consulting Corp. ("HCCC") organized the '2007 Korea Sustainability Management Conference' (hosted by the Korea Economic Daily) which was held at Grand Hilton Hotel on December 5, 2007. During the conference, Mr. Byung-Doo Lee, Vice President of HCCC, presented a speech on the 'New Paradigm of Worldwide Business Administration: Sustainability Management'.

The main purpose of the conference was to encourage the Korean government and corporations and lead them to execute the sustainability management in their fields. In addition, there was an award for the companies with outstanding achievement on implementing the sustainability management.

2008 Tax Law Changes

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We summarized below some of the major changes to keep you up-to-date on tax law changes in Korea. Most of the tax law changes we discuss below came into force effective from the fiscal year starting on or after January 1, 2008 unless indicated otherwise. [Please note that the tax rates provided below are exclusive of the resident surtax.]

1. Changes in Individual Income Tax Brackets

Under the revised Individual Income Tax Law, the income tax brackets have been adjusted upward effective from January 1, 2008 as follows. The applicable tax rates remain unchanged.

Tax base of income before change	Tax base of income after change	Tax rates
KRW 10 million or less	KRW 12 million or less	8%
Over KRW 10 ~ 40 million	Over KRW 12 ~ 46 million	KRW 0.96 million + 17% on the excess over KRW 12 million
Over KRW 40 ~ 80 million	Over KRW 46 ~ 88 million	KRW 6.74 million + 26% on the excess over KRW 46 million
Over KRW 80 million	Over KRW 88 million	KRW 17.66 million + 35% on the excess over KRW 88 million

(Note) 10% of income tax will be imposed additionally as a resident surtax.

2. Curtailment of Shareholders Scope subject to Reporting on Change for listed Companies

Under the revised Corporation Tax Law (“CTL”), the reporting obligations of listed companies on shareholders change have been eased. Specifically, the companies listed on Korea Stock Exchange or KOSDAQ shall be required to report changes in shares owned by controlling shareholders (defined) and their specially related parties (defined) only. For non-listed companies, the shareholders scope subject to reporting remains unchanged.

3. Introduction of Partnership Taxation

Under the revised Special Tax Treatment Control Law (“STTCL”), a partnership taxation scheme will be enforced from the fiscal year starting January 1, 2009. According to the revised STTCL, certain type of entities (such as an association established by two (2) or more members under the Civil Law or a personal holding company under the Commercial Code (i.e., Hapmyong Hoesa or Hapja Hoesa)) may elect to be treated as a pass-through entity. Upon election, it shall not be taxed at the entity level, but instead the partners shall be taxed on their shares of income calculated based on their profit / loss allocation ratios.

2008 Tax Law Changes, *Continued*

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4. **Introduction of Tax Return / Payment Obligation to Non-resident for Share Transfer**

Under the revised CTL, in the case where a foreign company (“Transferor”) with no permanent establishment in Korea transfers its shares in a Korean company to a non-resident or other foreign company (“Transferee”) that has no permanent establishment in Korea, the Transferor shall file a tax return and pay withholding taxes on Korean source income incurred from the share transfer if the Transferee does not withhold and pay taxes on such income. Previously, only the Transferee had such an obligation.

5. **Tax Treatment for Insurance Premium of the ‘Long-term Care Benefit Plan’ for the Senior**

The Long-term Care Benefit Plan for the Senior (“LCBPS”) will be implemented from July 1, 2008 under the law of LCBPS. The LCBPS insurance premiums borne by an employer shall be treated non-taxable income while the premiums borne by an employee shall be included in the special deduction items.

6. **Change in Definition of Majority Shareholder**

Under the revised Local Tax Law (“LTL”), the definition of majority shareholders in terms of secondary tax liability obligation has changed from those who have 51% or more of total issued stocks (or paid-in capital) of a company to those who own more than 50% thereof.

7. **Other Items of Interest**

Limitation on Payment in kind with Unlisted Stocks for Gift and Inheritance Tax

Previously, gift and inheritance taxes can be paid with the inherited unlisted stocks under certain limited circumstances (defined) only for the tax payment purpose. However, according to the revised Gift and Inheritance Tax Law, such in-kind tax payment by unlisted stocks shall not be applicable any longer except for the very limited cases such as there are no inherited assets other than the unlisted stocks, etc.

Introduction of Penalty Tax on Recipient of fictitious VAT Invoices

Before revision, the Value-Added Tax Law (“VATL”) has imposed a penalty tax (2% of the total forged transaction amount) only to a provider of goods or services who issues fictitious VAT invoices. However, under the revised VATL, the same amount of penalty tax shall be imposed to a recipient of fictitious VAT invoices as well.

New Tax Rulings

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We summarized below some of the important new rulings issued during the fourth quarter of 2007.

1. **Eligibility of Zero-rate VAT in case of Professional Technical Services to Foreign Company**

In the case where a taxpayer provides services prescribed under Article 26, Paragraph 1(1) of the Presidential Decree of the VATL of Korea to a foreign (non-Korean) company which does not have its permanent establishment in Korea, and receives a consideration in Korean Won through a foreign exchange bank by selling foreign currencies wired from a foreign (non-Korean) company thereto, such service provisions shall be eligible for the zero-rate VAT. However, whether the services provided by a taxpayer may be eligible for zero-rate VAT shall be determined according to the Korean Standard Industrial Classification (Seomyon – 3 team, 2007.10.19).

2. **Income Classification of Payments made in addition to Consideration for Goods Purchased**

Under an agent contract with a Japanese company with no permanent establishment in Korea in which the Japanese company gives a Korean company an exclusive right of selling and distributing the Japanese company's products in Korean market, if the Korean company is provided by the Japanese company with information related to industrial, commercial or scientific experience such as distribution channel developed by the Japanese company, the payments made to the Japanese company in addition to the consideration for the goods purchased shall be regarded as royalty income of the Japanese company under Article 93-9 of the CTL and under Article 12 of the Japan / Korea Tax Treaty (Jaekookjo – 638, 2007.11.09).

3. **Beginning Date of Business in case of Income or Loss incurred before Entity Registration**

In the case where a company recognizes income or loss incurred before the company registers its establishment with the district court, the beginning date of the first fiscal year is not the date of entity registration but the date when income or loss incurred for the first time under Article 3, Paragraph 2 of the Presidential Decree of the CTL (Seomyon 2 team – 2109, 2007.11.20).

Labor Law Changes

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We summarized some of the changes on the Labor Standards Act and other labor related law as follows.

1. Companies subject to 5 Day Work Rule starting July 2008

Under the revised Labor Standard Act of Korea (“LSA”) in 2003, the implementation of 5 day work rule will be extended to businesses or workplaces with full-time workers of 20 or more but less than 50 from July 1, 2008. The foregoing rule shall be enforced to businesses or workplaces with less than 20 full-time workers, and the State and local governments before the year 2011.

2. Introduction of Paternity Leave and Revision of Childcare Leave

According to the revision of Sexual Equality Employment Act of Korea (“SEEA”) which was passed through the National Assembly in 2007, starting June 22, 2008, in the case where a male employee requests 3 days paternity leave to his employer for wife’s childbirth, which should be requested within 30 days from the birth date, an employer is obligated to give 3 days paternity leave. In addition, a female employee can request childcare leave up to one year, until her child, born on or after January 1, 2008, becomes 3 years old (before amendment, 1 year old).

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