



# Newsletter

July 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. Signing on K-IFRS Conversion MOU with DUZON DASS**

On July 17, 2008, Horwath Choongjung Accounting Corp. and Horwath Choongjung Consulting Corp. have signed a memorandum of understanding (“MOU”) with DUZON DASS Co., Ltd., a leading Korean ERP company, for co-operation in providing advisory services relating to adoption of Korean International Financial Reporting Standards (“K-IFRS”) which should be adopted by all listed Korean companies by 2011.

The parties also agreed on co-operation for providing services for ERP system establishment related to preparation of consolidated financial statements, and for providing advisory or implementation services for the Balanced Score Card (“BSC”), a method for measuring a company’s performance.

### **2. Mr. H. J. Hwang, Managing Partner, awarded at the Annual Meeting of KICPA**

The 54th general assembly of the Korean Institute of Certified Public Accountants (“KICPA”) was held at the international conference hall of 63 building in Yoido, Seoul on June 10, 2008. During the meeting, the Financial Services Commission (“FSC”) representative addressed the importance of adopting IFRS and re-arranging regulatory rules to enhance competitiveness in the global market.

Mr. H. J. Hwang, managing partner of Horwath Choongjung Accounting Corp., was awarded by the FSC (Chairman: Mr. K.W. Jeon), an organization similar to the SEC in the U.S.A., in recognition of his contribution to the development of accounting and auditing service industry.

### **3. Horwath APRO 2008 Meeting held in Kuala Lumpur**

APRO 2008 Meeting, the partners’ meeting of Horwath International (HI) in Asia Pacific region, was held in Kuala Lumpur, Malaysia, from May 16 to May 17, 2008. There were total 85 participants from 40 regional offices in 18 countries such as Australia, Japan, China, Hong Kong, Singapore, etc.

Mr. H. J. Hwang, Managing Partner of Horwath Choongjung, and other six members attended the meeting. APRO 2008 meeting offered participants the opportunities to share their expertise through seminars under the various topics.



# Proposed 2008 Tax Law Changes

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

## **1. Changes in Corporate Income Tax Brackets and Tax Rates**

Under the proposed amendment to the Corporation Tax Law of Korea which has not yet been passed by the National Assembly, the corporate income tax rates and the range of the tax brackets will be lowered and expanded as follows:

Tax Base	2008 and 2009	2010 (and thereafter)
Up to KRW 200 million	11%	10%
Over KRW 200 million	22%	20%

(Note) 10% of corporate income tax will be assessed additionally as ‘resident surtax’.

Currently, the corporate income tax rates are 13% for the tax base of up to KRW 100 million and 25% for the excess (excluding the resident surtax).

## **2. Introduction of Consolidated Corporate Tax Return System**

The Korean government announced that it has a plan to introduce the consolidated corporate tax return system (“CCTRS”) from 2010. The Korean government expects that this tax law amendment be completed before the end of this year. Under the proposed CCTRS, a corporation may file the consolidated tax return by combining its own taxable income (or losses) with those of its subsidiaries in which the corporation has 100% share ownership and also pay the corporate tax in a consolidated manner. However, because of 100% ownership rule, the number of corporations to be benefited from introduction of the CCTRS is expected to be very limited.

## **3. Changes in Thin Capitalization Rule and New Threshold Ratio for Foreign Banks’ Korea Branches**

By the recent revision of the International Tax Coordination Law of Korea (“ITCL”), the equity of the foreign controlling shareholder (“FCS”) will be calculated reflecting the changes in equity due to capital increase, capital reduction, or merger, etc. during the fiscal year on a pro rata basis from 2008. Before the revision, the equity of the FCS was calculated just based on the equity amount as of the fiscal year end.

According to the recent proposal of Korean government, the debt-to-equity threshold ratio for the thin capitalization rule for a Korean branch of a foreign bank will be eased again to 600%. Until 2007, the threshold ratio for the financial institution was 600%, but due to the recent revision of the ITCL, this ratio was lowered to 300% from 2008 as is for the companies in other industry.



## 2008 Tax Law Changes- Cont'd

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### 4. Reduction in Minimum Tax Rates

Under the proposed Special Tax Treatment Control Law of Korea (“STTCL”) which has not yet been passed by the National Assembly, the minimum tax rates will be changed from 2008 as below.

Classification	Current	Proposed	
		2008 and 2009	2010 and after
Small/ medium sized companies	10%	8%	7%
Large companies	13% up to KRW100 billion	11% up to KRW100 billion	10% up to KRW100 billion
	15% for excess	14% for excess	13% for excess

(Note) 10% of corporate income tax will be assessed additionally as ‘resident surtax’.



## New Tax Rulings

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### **1. Whether NTS is obliged to make TP Adjustments in favor of Taxpayers**

The National Tax Service of Korea (“NTS”) issued a new ruling (Seomyon 2team-1112, 2008.6.3) that in the case where the tax authorities perform a tax audit and amend a company’s taxable income based on arm’s length price under Article 4 of the ITCL, the tax authorities would not be obliged to reduce the taxable income of the company by the difference if the taxable income under the actual transaction price is higher than that under the arm’s length price.

### **2. Eligibility of Indirect Foreign Tax Credit for Tax paid by Foreign Subsidiary in other Foreign Country**

A new ruling was issued by the NTS that when a Korean parent company calculates its indirect foreign tax credit (“IFTC”) on the dividend received from its Hong Kong subsidiary, the corporate income tax of the subsidiary eligible for the IFTC under Article 104-3 of the Presidential Decree of the STTCL does not include the corporate income taxes which the subsidiary paid in the country other than Hong Kong (Seomyon 2 team - 655, 2008.4.10).

### **3. Classification of Income paid to a Foreign Company for Right of Production, Sales and Distribution in Korea**

In the case where a Korean company pays to a foreign licensor of video game the consideration for the right of producing, selling, and distributing the video games in Korea, the consideration shall be classified as royalty income under Article 93 of the Corporation Tax Law of Korea and the Article 14 of the U.S./ Korea Tax Treaty (“Tax Treaty”).

In this regard, the reduced withholding tax rate under Article 14, Paragraph 2 of the Tax Treaty shall be applied to the foregoing royalty income (Seomyon 2 team - 818, 2008.4.30).

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