



Newsletter

July 2009

This newsletter, prepared by Horwath Choongjung LLC(Choongjung Accounting Corp.), is intended to provide 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.

Topics covered in this edition of Newsletter include

- ◆ **Horwath Choongjung News**
 - ▶ Services of Horwath Choongjung related to Adoption of K-IFRS by Listed Companies
 - ▶ Crowe Horwath International APRO 2009 Meeting held in Taiwan

- ◆ **Revised Commercial Code / Registry Law**
 - ▶ Abolishment of Minimum Investment Requirement
 - ▶ Abolishment of Limitation on Use of Similar Trade Name
 - ▶ Ease of Establishment and Operation for Small Company

- ◆ **Tax Law Changes**
 - ▶ Non-taxable Income Treatment for Interest Income or Capital Gains from certain Bonds

- ◆ **New Tax Ruling / Tax Tribunal Case**
 - ▶ Special Tax Treatment for Korean Employees / Officers with Green Card of Foreign Country
 - ▶ Application Timing of new Government posted Interest Rate of 8.5%

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

Newsletter July 2009

1. Services of Horwath Choongjung related to Adoption of K-IFRS by Listed Companies

The Korean companies listed in the Stock Exchange are required to adopt and apply the K-IFRS (International Financial Reporting Standards adopted by Korea) from year 2011 (including year 2010 as the comparable year).

Horwath Choongjung (“HC”) has been taking initiatives for installation and consultation services related to adoption of K-IFRS after holding ‘Adoption of K-IFRS’ seminar in November 2008. HC has provided or has been providing such services to Fawoo Technology Co., Ltd., Aimeka Co., Ltd., Bolak Co., Ltd. and Korea Flange Co., Ltd. so far. HC is also scheduled to provide K-IFRS related services to other four companies starting this fall.

In addition to the foregoing listed companies, HC has been discussing about possible services related to the K-IFRS adoption projects with about 20 other listed companies.

2. Crowe Horwath International APRO 2009 Meeting held in Taiwan

APRO 2009 Meeting, the meeting of Partners of Crowe Horwath International in Asia Pacific region, was held in Taiwan from May 7 to May 9. Total of 60 participants from 40 regional offices of 18 countries including Korea, United States, Australia, Japan, China, Hong Kong, and Singapore had an opportunity to enhance their expertise through various educational sessions in relation to Audit, Tax and Brand Conversion (from ‘Horwath International’ to ‘Crowe Horwath International’) and to build up a solid network with each other through the seminar under the topic of Mid and Long-term Management Strategy led by the management of Crowe Horwath International.

Mr. J Y Park (Partner of QRM), Mr. J D Seo (Partner of Tax & BPO), and Ms. G S Sim (Director of Tax & BPO) attended the meeting.



Revised Commercial Code / Registry Law

Newsletter July 2009

1. **Abolishment of Minimum Investment Requirement**

The minimum investment requirement of KRW 50 million for Chusik Hoesa (a kind of the stock holding company) is abolished under the revised Commercial Code (“CC”) so that anyone with creative ideas can set up a company without a burden of capital investment. Under the revised CC, the minimum required paid-in capital amount is KRW 100 or more. However, the minimum investment requirement to be registered as a foreign invested company remains unchanged as KRW 50 million per foreign investor under the Foreign Investment Promotion Act.

2. **Abolishment of Limitation on Use of Similar Trade Name**

Under the revised Commercial Registry Law, the limitation on use of similar trade name is abolished whereas the use of the same trade name is still prohibited. Before the revision, a corporation shall not register with registry office a similar or same trade name with any other companies within the same district, city, or country if engaged in the same line of business. However, a corporation who has a right of trade name may still claim the damages to the party who infringes on its right of trade name.

3. **Ease of Establishment and Operation for Small Company**

Under the revised CC, some requirements including the following are waived for small companies with a capital of less than KRW 1 billion.

- Appointment of internal auditor
- Board of directors
- Notice to convene shareholders’ meeting upon shareholders’ consent
- Notarization of Articles of Incorporation and Minutes for a small company incorporation



Tax Law Changes

Newsletter July 2009

We summarized the following tax law change (Presidential Decree) in Korea to keep you updated.

Non-taxable Income Treatment for Interest Income or Capital Gains from certain Bonds

If non-residents without a permanent establishment in Korea earn interest income or capital gains from national bonds or monetary stabilization bonds prescribed under the relevant laws, the foregoing income shall be treated as non-taxable income for the income paid or the transfer of bonds made on or after May 21, 2009 under the Corporate Tax Law.

Non-taxable income treatment shall be also applied in case where non-residents without a permanent establishment in Korea invest in the foregoing bonds through the non-Korean financial institutions approved by National Tax Service.

In order to claim non-taxable income treatment, a tax exemption application form should be submitted to the district tax office by nine days from the end of the month in which the foregoing income is paid.



New Tax Ruling / Tax Tribunal Case

Newsletter July 2009

1. Special Tax Treatment for Korean Employees / Officers with Green Card of Foreign Country

As to whether special tax treatment (non-taxation on 30% of salary income or application of flat tax rate of 15% on salary income) for foreign employees/officers could be also applicable to a Korean national holding a green card of a foreign country, the Korean tax authorities have been taking a positive stance based on the definition of a foreigner under the Foreign Investment Promotion Act of Korea.

However, in early 2009, the Tax Tribunal of Korea changed its stance by a tax tribunal case that special tax treatment would not be applicable to a Korean with a green card of a foreign country based on the definition of a foreigner under the Act on Foreign Worker's Employment, etc.

In May 2009, the Korean tax authorities again kept its position in a positive way by issuing a tax ruling (Jaesodeuk-296, 2009.5.25) that the special tax treatment for foreign employees/officers could be applicable to a Korean national with a green card of a foreign country as well.

2. Application Timing of new Government posted Interest Rate of 8.5%

Under the revised PD of the Corporate Tax Law, in case of lending the money to a local related party, a market interest rate for loan transaction can be selected between the following.

- Weighted-average borrowing interest rate of the lender; or
- Current government posted interest rate

The government posted interest rate is changed from 9% to 8.5% in March 2009. Regarding the application timing of this new rate, a recent tax ruling from the Ministry of Strategy and Finance (Jaebubin-588, 2009.06.18) states that the new interest rate of 8.5% should be applied to any interest incurred after January 1, 2009.

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