



Newsletter

October 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

- ◆ **Proposed Tax Law Changes**
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 - ▶ Reduction in Income Tax Exemption for Foreign Engineer
 - ▶ Abolition of Non-taxation Benefits on Royalty Income of Foreign Company related to High-end Technology
 - ▶ Corporate Tax Return Filing Due Extension for Corporations subject to External Audit
 - ▶ Increase of Minimum Tax on Large sized Companies
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- ◆ **New Tax Notice**
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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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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, 2010 unless indicated otherwise.

1. **Abolition of 30% Non-taxation Treatment for Foreign (Non-Korean) Employee**

Under the Special Tax Treatment Control Law (“STTCL”), foreign employees have been eligible for special tax benefits of either non-taxation treatment on 30% of their earned income (“30% non-taxation”) or application of the flat tax rate of 16.5% (including resident surtax).

According to the proposed STTCL, 30% non-taxation will be abolished and accordingly, only the flat tax rate of 16.5% will be applicable from 2010, which is to reduce unequal tax treatment between foreign employees and local employees.

2. **Reduction in Income Tax Exemption for Foreign Engineer**

Under the STTCL, the qualified foreign engineers (defined) have been eligible for 100% income tax exemption benefits on their earned income for a period not exceeding 5 years.

However, under the proposed STTCL, the rate and period of tax exemption benefits will be reduced to 50% and to 2 years, respectively.

3. **Abolition of Non-taxation Benefits on Royalty Income of Foreign Company related to High-end Technology**

Under the STTCL, a foreign (non-Korean) company has enjoyed a tax exemption benefit on its royalty income for 5 years that is related to high-end technology (defined) introduced to a domestic company in Korea.

However, under the proposed STTCL, such benefits will no longer be applicable to resolve the issue of unequal tax treatments between royalty payment for the technology from a domestic company and that from a foreign company.



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4. Corporate Tax Return Filing Due Extension for Corporations subject to External Audit

According to the proposed Corporate Tax Law of Korea (“CTL”), an external audit required company may request extension of corporate tax return filing due date and upon application, up to one month extension from the original filing due date will be automatically granted.

However, a penalty for the late payment of the corporate tax (which is in nature of interest) will be imposed by 10.95% p.a. for the period from the original filing due date to the date when tax payment is made under the extension.

5. Increase of Minimum Tax on Large sized Companies

Under the STTCL, minimum tax on small/medium companies (defined) are scheduled to be reduced to 7% for 2010 whereas minimum tax on other companies are scheduled to be reduced to 13% (10% up to the taxable income of W100 billion).

However, under the proposed STTCL, the minimum tax on the large companies (defined) on taxable income between W10 billion and W100 billion, and taxable income over W100 billion will be increased to 13% and 15%, respectively.

The minimum tax rates for 2009 and 2010 (proposed) are summarized as below:

<i>Classification</i>	<i>2009</i>	<i>2010 (proposed)</i>
Small/medium sized companies (defined)	8%	7%
Large companies (defined):		
Taxable income W10b or less	11%	10%
Taxable income over W10b but less than W100b		13%
Taxable income over W100b	14%	15%

Note: 10% of corporate income tax shall be imposed as resident surtax additionally.

Disallowed tax credits due to minimum tax can be carried forward for 5 years.



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6. Alleviation of Limitations on issuing VAT Invoice by Buyer

Under the STTCL, if a vendor refuses to issue a Value Added Tax (VAT) invoice to a buyer, the buyer itself may issue the concerned VAT invoice by obtaining confirmation from the relevant tax office (“Self-billing”).

In order to encourage a buyer to issue the VAT invoice upon refusal of a vendor, the limitations on issuing VAT invoice will be alleviated as below under the proposed VAT Law.

	From	To
-Application due of Self-billing:	Within 15 days (from purchasing)	Within 3 months
-Limitation on amount:	Less than W5 million per transaction	No limitation
-Limitation on number of case:	Not more than 2 transactions per month	No limitation

7. Abolition of Approval on Application for Aggregate VAT Payment by Principal Business Place

Under the VAT Law, in the case where a taxpayer has more than one business place, the taxpayer may make ‘aggregate VAT payment by a principal business place (i.e., head office)’ upon its application and approval by the relevant tax office.

However, such approval will not be required under the proposed VAT Law and thus, a taxpayer may elect the aggregate VAT payment by a principal business place just by filing the application.



New Tax Notice

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Revised Notice on Electronic VAT Invoices

Under the revised VAT Law of Korea, a corporate taxpayer should issue VAT invoices only electronically starting from January 1, 2010.

On August 31, 2009, the National Tax Service (“NTS”) of Korea announced a revised notice (NTS Notice 2009-80) as to how a corporate taxpayer should issue electronic VAT invoices and store them, which includes the following:

- Storing VAT invoices issued and received electronically will suffice the taxpayer’s obligation of VAT record keeping
- When issuing VAT invoices electronically, a corporate taxpayer should send the electronic VAT invoices using an electronic certification from public electronic certification institutions or similar secured certification system.

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