



Samil Commentary

Korean Tax Update

March 24, 2009

This publication contains information on selected current developments in Korean taxation, laws and regulations compiled by the tax service group of Samil PricewaterhouseCoopers, a network firm of PricewaterhouseCoopers.

Proposed Tax Changes to Facilitate Economic Recovery

The Ministry of Strategy and Finance has proposed a series of measures to facilitate the economic recovery which would include a new withholding rule for foreign investment in government bonds. The proposed changes will become effective following the approval by the National Assembly in its temporary session to be held in April 2009.

Withholding Tax Exemption for Foreign Investment in Government Bonds: The proposed new withholding rule would exempt nonresidents and foreign corporations from individual or corporate income tax on interest arising from investment in government bonds and monetary stabilization bonds. Nonresidents and foreign corporations would also be exempt from individual or corporate income tax on any gain from the sales of such bonds. In order to qualify for the exemption, foreign investors may invest through an account opened in Korea or through a qualified foreign intermediary as authorized by the National Tax Service. The exemption would apply to interest payment or capital gain made on or after the enforcement date of the proposed new rule. Penalties would be imposed against local residents who are found to abuse the new rule to avoid tax.

Some of the other proposed tax Incentives to stimulate the economy include the following:

Lower income tax on dividends: Overseas Koreans as defined by the 'Act on the Immigration and Legal Status of Overseas Koreans' would receive tax benefits for investment in qualifying Korean funds which would be exclusively created to pool money from overseas Koreans.

The proposed tax benefits would include the exemption from income tax on dividends for investment up to KRW100 million in each fund and a reduced rate of 5% tax on the amount of dividends in excess of KRW100 million. The proposed benefits would apply when an overseas Korean first joins such funds during the period of March 16, 2009 to December 31, 2010. And the tax exemption would be available on dividends received until the end of December 2012.

To be eligible for this tax attribute, all the investors in the fund must be overseas Koreans.

The fund must be a qualified collective investment vehicle established under Capital Market and Financial Investment Business Act and invest only in local assets (securities, real property, etc.) other than overseas assets.

Tax Incentives to Promote Job Sharing: A 50% tax deduction may be allowed to a corporate taxpayer for a pay cut made as part of a job-sharing scheme intended to avoid lay-offs. The income deduction would only be granted with respect to employees (excluding directors and board members) in small and midsize enterprises (SMEs), which cut wages to share and maintain their employment at their level in 2008. For the employees of such SMEs, whose wages are adjusted downward, 50% of the reduced portion would be claimed as a deduction in calculating individual income tax on their earned income. The income deduction would be limited to KRW10 million per employee for two years of 2009 and 2010. And the deduction would not be available to the employees of a large company.

Additional Investment Credit: Besides the existing 10% tax credit for facility investment (3% for investment in metropolitan areas), an additional 10% tax credit is proposed for the amount in excess of a company's annual average investment for the three immediately preceding years.

Tax incentives for corporate restructuring include:

- Three-year installment payment of corporate income tax and capital gains tax after a grace period of three years would be allowed when a financially-distressed company sells its own assets (real property, securities, etc.) to pay debts owed to financial institutions in accordance with the Corporate Restructuring Promotion Act.
- Deduction would be allowed for a donation of assets by a large shareholder (an individual or a corporation) to an ailing subsidiary where the subsidiary uses the donated assets to pay out its debts. The recipient subsidiary may pay tax on

its gain from such donation in three yearly installments after a three-year grace period.

- When a large shareholder sells its assets to donate cash to its ailing subsidiary, any capital gain from the sales of assets would be exempt from income tax.
- When a large shareholder (which is an ailing company) returns its share ownership to a subsidiary for free and the subsidiary subsequently cancels or redeems the shares, such donation of shares would be deductible for the shareholder's corporate income tax purposes and any gain from this donation would be tax exempt for the subsidiary's corporate income tax purposes.
- When a parent company takes over an ailing subsidiary's debts to make the subsidiary "clean" before selling it to others, such debts would be deducted for the parent company's corporate tax purposes. For any gain from this debt forgiveness, the subsidiary may pay income tax in three yearly installments after a three-year grace period.
- When a company purchases the shares of a subject company from the company's controlling shareholder and issue new shares of its own as the consideration, taxation on any capital from this transaction would be deferred until the acquired shares are disposed of. Securities transaction tax would also be exempt.
- Deferral of income derived by special purpose companies (SPC) established to expand bank capital
- Exemption of such SPC from securities transactions tax on the sale of preferred stock or withholding tax on bond interest income.
- Three-year extension of the sunset clause on the deferral of capital gain for the establishment of a holding company or an overseas company through in-kind contribution until the end of December 2012.

Job-creating Companies to Be Excluded from Regular Audit Target Group

The National Tax Service (NTS) will exclude job-creating companies from the target list for NTS regular audit for 2009. Companies meeting a certain level of additional job creation through the expansion of investment or business places in 2009 will be excluded from the NTS audit target in the year.

A company whose income attributable to 2008 amounts to less than KRW30 billion may be excluded from the regular tax audit list in 2009 if the number of its full-time employees increases by 3% or higher in 2009. Minimum of 5% increase is required for a company having income of more than KRW30 billion but KRW100 billion in 2008 and 10% increase is required for a company having income of KRW100 billion or more.

To benefit this audit exclusion, companies shall submit their plans to create additional jobs in filing their corporate income tax return for 2008.

Rulings

Computation of acquisition cost of risk-hedged assets for tax purpose

When the hedge accounting under the Korean GAAP

and the concerned guidelines of the Korea Accounting Institute were applied to forward contracts purchased to offset risks from changes in fair value of the assets to be settled in foreign currency, the acquisition cost for tax purposes shall be the acquisition cost of assets under the fair value hedge accounting as prescribed by the KGAAP, according to the ruling (*Jaebupin-25, 2009.1.13*)

Scope of Logistics Outsourcing Cost Eligible for Tax Credit

The scope of logistics outsourcing cost eligible for a tax credit should cover the cost incurred after the sale is confirmed including the delivery of goods to the customer, delivery for returns, recycling or disposing of the goods, etc. according to the ruling. (*Beopin-551, 2009.2.10*)

The ruling states, however, that the costs incurred for the delivery of goods to a logistics center in advance of the consummation of sales shall not be eligible for the tax credit.

Under the tax law, a tax credit is granted for a manufacturing company outsourcing logistics to an unrelated external service provider, if the payments to the external service provider accounts for 70% or more of the company's total logistics cost for the concerned year.

The information contained in this publication is for general guidance on matters of interest only and is not meant to be comprehensive. The application and impact of laws can vary widely based on the particular facts involved. For more information, please contact your usual Samil PwC client service team or professionals listed below.

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SamilPwCAcademy Programs

2009년 4월의 교육프로그램

세무실무기초 4.7 (화) ~ 4.10 (금), 총 4일 (24시간)

조세체계, 법인세·소득세·부가가치세의 실무, 소득세와 원천징수 등

세무조사대책실무 4.7 (화) ~ 4.7 (화) 총 1일 (7시간)

세무조사에 대한 효과적 대응방안, 주요 조사방법, 조사대상의 선정과정 및 주요 세목 별 조사사례의 연구를 통한 실무상 유의점 등

원천징수실무 4.7 (화) ~ 4.10 (목), 총 4일 (24시간)

원천징수 관련 각종 세무서식 작성요령, 법인세 및 소득세법의 기본개념, 각 법에 따른 원천징수대상 소득에 대한 해설, 원천징수방법에 대한 업무 프로세스

비영리법인의 회계와 세무해설 4.8 (수) ~ 4.10 (금) 총 3일 (21시간)

영리법인과 비영리법인의 회계 및 세무처리 차이점, 구분기장의 원리 및 출연재산 사후관리, 수익사업의 회계처리방법 및 법인세 신고실무

신입사원경리실무 (야간) 4.8 (수) ~ 4.24 (금), 총 8일 (24시간)

회계보드게임을 통한 경영활동의 입체적인 이해와 재무제표의 연관성에 대한 종합적 학습, 계정과목별 회계처리 및 결산서 작성, 원가·관리회계 및 세무회계에 대한 기본개념

M&A 실무 4.8 (수) ~ 4.10 (금), 총 3일 (21시간)

M&A 개요, 기업가치평가, 자금조달, 특수한 형태의 M&A, M&A 회계 및 세무 쟁점

국제조세실무 4.14 (화) ~ 4.17 (금), 총 4일 (24시간)

국내원천소득과 OECD 조세조약, 이전가격과세제도 및 국제조세조정법률, 외국법인 과세체계, 고정사업장 실무에서 발생하는 이전가격문제에 대한 국세청 국제조세 유권해석 책임자의 실무

재무회계입문 4.15 (수) ~ 4.17 (금), 총 3일 (21시간)

경영시뮬레이션 게임을 통한 회계 흐름에 대한 입체적인 이해, 복식부기 원리 해설 및 사례, 전표작성, 경산 및 재무제표 작성 원리, 재무제표에서 일반적으로 사용되는 계정과목 해설

계정과목별 회계와 세무 4.20 (월) ~ 4.23 (목) 총 4일 (28시간)

기업회계기준 및 기업회계기준서의 계정과목별 회계처리에 대한 핵심사항, 계정과목별 세무조정사항 및 세무 유의사항

부가가치세 핵심포인트실무 4.21 (화) ~ 4.21 (화) 총 1일 (7시간)

개정된 부가가치세법, 시행령 및 시행규칙, 세액의 계산과 신고납부 등 실무상 유의해야 할 예규와 판례

사업타당성분석실무 4.21 (화) ~ 4.23 (목), 총 3일 (21시간)

사업타당성분석의 기초, 미래현금흐름의 추정, 투자안의 경제성 및 자본비용 분석, 불확실성에 대한 고려

원가계산 및 분석실무 4.21 (화) ~ 4.24 (금) 총 4일 (24시간)

원가계산 방법론 및 의사결정기법에 대한 실무, 효율적인 원가계산시스템 구축 및 원가절감 기법

삼일 IFRS School 4.28 (화) ~ 4.30 (목) 총 3일 (18시간)

국제회계기준(IFRS)과 기업회계기준의 주요 차이, 주요 주제별 국제회계기준(IFRS) 및 국제회계기준(IFRS) 실무사례

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