

Tax News Flash

September 2009



For more information, please contact our International Tax Service Professionals;

David Jin Young Lee
82-2-709-0557 | jylee@samil.com

Dong-Keon Lee
82-2-709-0561 | dklee@samil.com

Sang-Keun Song
82-2-709-0559 | sksong@samil.com

Alex Joong-Hyun Lee
82-2-709-0598 | alexlee@samil.com

Shin-Jong Kang
82-2-709-0578 | sjkang@samil.com

Han Chon
82-2-3781-3489 | hjchon@samil.com

Sang-do Lee
82-2-709-0288 | sdlee@samil.com

Sung-Young Kim
82-2-709-4752 | sykim@samil.com

www.samil.com

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.

Guideline for 2009 Tax Audit Administration

National Tax Service (“NTS”) has unveiled its 2009 guideline for the selection of subject companies to receive a regular tax audit after in-depth consultation and contemplation by the Audit Selection Review Committee and the National Tax Administration Committee, held on Sept. 11, 2009 and Sept. 21, 2009, respectively. This unusual announcement of the selection guideline is intended to enhance the objectivity and predictability for tax payers although the international norm is that such audit selection guidelines or evaluation methodology are not released. We have summarized the major contents of the guideline below:

Selection Guideline

- In 2008, around 2,700 companies were selected for a regular tax audit, which accounted for 0.7% of the total corporate tax payers. This selection rate may remain the same for 2009, but the number of companies would be increased to 2,900 due to the overall increase of corporate tax payers. The audit ratio may be reduced, however, for small and mid sized companies with revenue of KRW30 billion or less.
- In 2009, different selection methodology would be taken based on the revenue volume:
 - Large companies generating annual revenue of KRW500 billion or more would be subject to a regular tax audit in every 4 years. In the past, corporate tax payers used to undertake a tax audit in 3 to 6 years with no consideration of revenues.
 - Companies with revenue of KRW100 billion to KRW500 billion would be selected based on Compliance Analysis Function (CAF) evaluation, which is similar to Discriminant Inventory Function (DIF) of the US IRS.
 - Companies with revenue of KRW100 billion or less would be selected based on CAF evaluation in principle but small companies with revenue of KRW5 billion can also be selected at random basis.

Exclusion from Audit Selection

The following companies may be excluded from the audit selection in consistent with NTS' prior announcement in February, 2009.

- Job creating companies
 - Companies that have submitted their Job Creation Plan to the relevant tax office
 - Small and Mid Sized Enterprises (SME) that are granted employment support subsidies during 2009
 - SMEs that have received qualified labor related awards or certificates
- Qualified New Growth Industries including Green Technology
 - 17 New Growth Industries in 3 major areas, which were determined in the National Science Technology Committee and the Future Planning Committee in Jan. 13, 2009.
 - The three major areas are Green Technology (6 industries including renewable energy, low carbon energy, LED, etc.), Advanced Combination (6 industries including new material-nano, bio-pharmaceutical & medical equipment, etc.) and highly value added services (5 industries including global healthcare, global education service, green financing, etc.)
- Small companies with revenue of KRW1 billion or less (except for rental business, bars, etc.) may be excluded from the audit selection as long as they have fully complied with the tax obligations and there is no doubtful tax evasion practice.

Compliance Analysis Function (CAF)

- Compliance Analysis Function is a computerized analysis system designed to select the audit subjects in an objective way based on the tax filings and other information available in the tax information system.
- Companies are grouped based on revenue volume and industry type and the evaluation is performed within the same group. The number of evaluation factors is 351 in total, consisting of relative evaluation among the comparables within the same group as well as absolute evaluation.
- Absolute evaluation includes, but not limited to the following analysis:
 - Manipulation of income through false recording
 - Outflow of corporate assets to overseas through international transactions (by investigating foreign exchange transactions, cross-border trading, foreign investments, etc.)
 - Overstatement of corporate expenses through recording non-business purpose expenditures
 - Outlay of corporate funds for non-business purposes (e.g. purchase of real estate for the owner)
 - Analysis of corporate tax compliances (e.g. receipt of qualified invoices, tax withholding, etc.)
- The overall rating (Upper, Middle, Lower Group) is determined based on the cumulative evaluation for the past two years and the annual evaluation for the current year.