



January 2007

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.

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Korea Designates Five Foreign Jurisdictions as Tax Havens

Effective December 29, 2006, the National Tax Service announced a list of five foreign jurisdictions ("designated tax havens") subject to the so-called controlled foreign corporation rule (i.e., CFC rule). These jurisdictions include Liberia, Liechtenstein, Marshall Islands, Monaco and Andorra.

In addition to the designated tax havens, the CFC rule will also apply to those jurisdictions where corporate income tax liability is less than 15% of any income before income taxes.

In brief, the CFC rule addresses that any distributable earnings generated by a foreign corporation residing in one of the jurisdictions mentioned above shall be deemed to have been distributed to the Korean shareholder with 20% or more of share ownership in the concerned foreign corporation even if actual dividend payment is not made to the Korean shareholder.

Revisions to the Korea-Canada Tax Treaty

Revisions to the Korea-Canada tax treaty became effective on December 18, 2006 in three months after both governments signed a new Convention for the Avoidance of Double Taxation in September 2006 (see *the Samil Commentary October 16, 2006*).

It should be noted that provisions of the revised treaty shall have effect in respect of tax withheld at the source on amounts paid or credited to non-residents on or after January 1, 2007. In respect of other taxes, its provisions shall become effective in taxation years beginning on or after January 1, 2007.

Also, note that dividends, interests and royalties will be taxed in the country of residence of the payer of such income so as not to exceed the reduced rates. The withholding tax on dividends is 15% (5% for share ownership of 25% or more) and the tax on interests and royalties is 10%.

Korea-Albania Tax Treaty Comes into Force in January 2007

The Korea-Albania tax treaty which was signed by both governments on May 17, 2006 came into force on January 15, 2007. The agreement is the first income tax treaty concluded between the two countries.

MOFE's Plans for Taxation Policies in 2007

Plan for Partnership Taxation

The Ministry of Finance and Economy (MOFE) has outlined its plans for taxation policies in 2007. According to the MOFE, it plans to introduce partnership taxation to facilitate the creation and operation of business organizations such as limited partnerships (LP) and limited liability companies (LLC).

Partnership taxation is a tax scheme whereby a partnership would be treated as a conduit of income not subject to corporate income tax, but each individual partner would be subject to corporate income tax or individual income tax on his share of the profits according to his interest in the partnership, according to the MOFE.

As part of this plan, the MOFE will create a task force team in the first quarter of 2007 which will consist of professionals from the National Tax Service, Korea Institute of Public Finance, accounting firms and law firms. Blueprints to introduce the partnership taxation will be drafted in the third quarter with expectations of submitting a bill to revise tax laws that introduce partnership taxation to the National Assembly in the fourth quarter of 2007.

In the meantime, the Ministry of Legislature's bill to revise the Commercial Code to include new provisions allowing LPs and LLCs to be created more easily is currently awaiting approval by the National Assembly (see *Samil*

Commentary, October 31, 2006).

Plan for New or Amended Tax Treaties

The MOFE will move to reach new or amended agreements for the avoidance of double taxation of income with countries that are active in trade with, but have no treaties with Korea. Among the candidate countries are Qatar, Cayman, Saudi Arabia, Cambodia, Azerbaijan, and Hong Kong. It also plans to amend existing treaties with several countries such as Belgium, India, Netherlands and Ireland.

Tax Audits to Be Suspended for Small and Midsize Companies to Promote Job Creation and Service Businesses

The National Tax Service (NTS) has announced a set of plans to waive or suspend tax audits for small and midsize companies (SMC) contributing to job creation and service businesses over the upcoming one to five years.

The latest NTS plan calls for waiving tax audits over the next two years until the end of December 2008 for a SMC (three years for a SMC in a regional area) that marks a 5% increase in the number of full-time employees including at least one (1) new hire (on an annual average basis) in the fiscal year (FY) 2007 from FY2006.

The latest requirements are eased from the previous ones set by the NTS during 2006 which required a 10% increase in the number of full-time employees including at least 10 new hires on an annual average basis.

The incentives will also apply to SMCs engaged as of July 1, 2006 in any of the 10 strategic growth industry projects jointly pursued by the government and the private sectors, including intelligence robots, next

generation cell, digital contents, etc.

Other companies that qualify for the suspension of tax audit and incentive details are summarized below.

- ❑ waiving tax audits for one year until the end of December 2007 for a SMC having 50% or more of its revenue generated in any of the service industries specified by the NTS as of the fiscal year of 2005. The NTS has announced a list of 54 service sectors, including 10 sectors closely supporting manufacturing industries and 44 knowledge-based industries, which fall under this category.
- ❑ waiving tax audits for one year until the end of December 2007 for a SMC where exports (including those based on local credit) account for at least 20% of its annual gross sales; and
- ❑ exempting from tax audits a start-up SMC that commences operations between January 1, 2007 and December 31, 2007 over the next three years until the end of 2009 (five years until the end of 2011 for those SMC starting business in regional areas).

However, if there is an apparent indication of tax avoidance, a tax audit will be initiated irrespective of whether a SMC meets the criteria for the latest supporting measures.

Rulings

Treatment of Tax Paid by a Domestic Company on a US Subsidiary's Profits under Partnership Taxation

In the case where a domestic company having a US subsidiary established a limited liability company (LLC) but individual partners are

taxed on its share of the profits according to their interest in the LLC, a ruling issued by the National Tax Service provides that the domestic company may credit foreign taxes so paid against the Korean corporate income tax. (*Seomyeon2team-2215, 2006.11.1*)

Treatment of the Payment of Common Expenses Made in Cash

A recent ruling issued by the NTS refers to the case where a headquarter office makes the payment of expenses disbursed to carry on a joint project on behalf of a group of companies engaged in the project and apportions the common expenses to respective companies according to reasonable allocation guidelines. In this case, the payment of common expenses made in cash by respective companies to the headquarter office shall not constitute the supply of goods or services. Accordingly, the respective companies are not subject to the requirements that companies must receive and keep supporting documents for such payment. In addition, tax invoices may be issued to respective companies making the payment in respect of a portion of the common expenses on which the headquarter office has received tax invoices. (*Seomyeon2team-2557, 2006.12.12*)

Characterization of Stock Option Exercise Gain after Retirement

If an employee of a foreign company's subsidiary in Korea who was granted stock options by the foreign company during his employment sells the foreign stock options after retiring from the Korean subsidiary, any gains derived by the employee from the exercise of options are deemed as Class B earned income of the employee. The Korean subsidiary is not subject to withholding obligations in respect of Class B earned income. However, if entrusted by a

nonresident or a foreign corporation to pay Class B income to a resident or a nonresident in Korea, the Korean subsidiary is liable to withhold taxes on such income. (Seomyeon1team-1524, 2006.11.9)

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 specific facts involved. For more information, please contact your usual Samil PwC client service team or professionals listed below.

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2007 년 2 월의 교육프로그램

법인세세무조정실무 2월 5일 (월) ~ 2월 9일 (금), 5일간 총 31시간

세무조정 원리, 익금, 손금, 손익의 귀속시기, 자산 및 부채 평가, 충당금 및 준비금 과세표준과 세액, 조정계산서

원가계산 및 분석실무 2월 6일 (화) ~ 2월 9일 (금), 4일간 총 24시간

원가계산 총론 및 방법론, 원가추정과 원가행태 분석, 원가관리시스템 진단 및 분석사례, 원가기획과 신원가관리기법 등

XBRL 입문과정 2월 7일 (수) ~ 2월 7일 (수), 1일간 총 4시간

XBRL 소개 및 관련 동향, XBRL을 통한 기업보고, XBRL 도입사례, Taxonomy만들기

세무조사대책실무 2월 8일 (목) ~ 2월 8일 (목), 1일간 총 7시간

조사대상의 선정, 준비조사, 실지조사, 소득처분, 대차대조표 조사, 무형고정자산, 손익계산서 조사: 매출액, 수익인식, 판관비 조사, 주요 세법 별 조사사례 및 유의사항과 대응전략

재무제표분석실무 2월 12일 (월) ~ 2월 15일 (목), 4일간 총 24시간

계정분석을 통한 재무제표분석, 재무비율분석, 재무제표와 현금흐름분석 재무제표와 원가구조분석, 재무제표를 통한 부실징후분석

계정과목별 회계와 세무 2월 12일 (월) ~ 2월 15일 (목), 4일간 총 28시간

재무제표의 구성과 상호관계, 자산계정의 회계와 세무, 부채/손익계정의 회계와 세무

재무회계입문 2007년 2월 13일 (화) ~ 2월 15일 (목), 3일간 총 21시간

회계의 기초개념 및 원리, 모의 경영게임을 통한 회계의 개념과 결산의 원리 이해, 계정과목 이해, 손익계산서의 이해

6시그마 도입 및 추진전략실무 2월 14일 (수) ~ 2월 14일 (수), 1일간 총 6시간

6시그마 국내 도입 및 추진현황, 정의, 프로세스 수준을 평가하는 방법, 품질비용의 이해, Project Roadmap, DMAIC, DFSS 프로젝트 사례 검토, Right Strategy

비영리법인의 회계와 세무해설 2월 21일 (수) ~ 2월 23일 (금), 3일간 총 21시간

수익사업과 목적사업의 구분과 회계처리에 대한 사례해설, 비영리법인관련 조세지원제도와 사후관리 증점해설, 학교, 의료법인, 장학재단의 회계처리방법 해설

현금흐름표 작성 및 분석실무 2월 21일 (수) ~ 2월 23일 (금), 3일간 총 21시간

현금흐름표의 의미 및 체계, 작성 및 활용실습(Case Study), 전략적 활용 및 사례연구

사례중심별 부가가치세실무 2월 22일 (목) ~ 2월 22일 (목), 1일간 총 7시간

영세율 제도와 면세제도의 비교, 과세거래, 거래시기, 거래장소, 과세표준과 세액의 계산, 거래징수와 세금계산서, 겸영사업자의 세액계산특례, 간이과세자

M&A전략전문가과정(야간) 2월 26일 (월) ~ 3월 28일 (수), 13일간 총 39시간

M&A관련 전략, 법률쟁점, 조직관리 등 사례를 통한 제반 Process의 이해, 실습 및 사례연구,

위의 교육과정은 이론 및 실무, 그리고 사례 연구 등 실무능력향상에 중점을 둔 교육으로 「고용보험법 및 근로자 직업훈련촉진법」에 의해 교육훈련비의 일부를 정부로부터 지원 받는 교육과정으로 지정되어 있으며 (일부 과정은 제외) 교육 7일 전까지 신청하셔야 교육훈련비의 일부를 지원 받으실 수 있습니다. 자세한 사항에 대한 문의는 삼일회계법인 종합교육센터 (☎: 02-3781-3030)로 하시기 바랍니다.