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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-Lithuania Income Tax Treaty Comes into Force

The Korea-Lithuania income tax treaty entered into force on July 14, 2007. Provisions of the treaty on taxes withheld at source will become applicable on or after January 1, 2008 and those of other taxes will become applicable for the tax years beginning on or after January 1, 2008.

Measures for Liberalizing Foreign Exchange Transactions to Be Implemented in December 2007

The latest package of foreign exchange liberalizing measures are aimed at removing regulatory barriers to meet global standards, creating a market-friendly environment, facilitating transactions among financial institutions upon the enactment of Korea's financial capital markets integration legislation and promoting the internationalization of the Korean Won.

Rulings

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Samil PricewaterhouseCoopers ranked as No. 1 Tax Advisor in Korea in the International Tax Review World Tax 2008

Korea-Lithuania Income Tax Treaty Comes into Force

The Korea-Lithuania treaty for avoidance of double taxation and prevention of fiscal evasion of income tax entered into force on July 14, 2007. The treaty, which was signed on April 20, 2006, is the first income tax treaty concluded between the two countries.

Provisions of the treaty on taxes withheld at source will become applicable on or after January 1, 2008 and those of other taxes will become applicable for the tax years beginning on or after January 1, 2008.

According to the treaty, dividends, interest and royalties will be taxable in the country where the payer of such income is a resident. Dividends will be taxable at 5% if the beneficial owner is a company (other than a partnership) which holds directly at least 25% of the capital of the company paying the dividends or at 10% otherwise. Royalties received as the consideration for the use of industrial, commercial or scientific equipment will be taxable at 5%. In all other cases, royalties will be taxable at a rate not to exceed 10%. Interest will be taxable at 10% and government and financial institutions performing governmental functions will be exempt from tax on interest.

Capital gains derived by a company of a contracting state from the transfer of immovable property situated in the other contracting state or from the transfer of shares in a company whose assets consist mainly of such immovable property may be taxed in that other state. Also, movable business property of a permanent establishment which a company of a contracting state has in the other contracting state may be taxed in that other state.

However, gains from the sale of ships or aircraft operated in international traffic or movable

property pertaining to the operation of such ships or aircraft will be taxable only in the country in which the seller is a resident. Capital gains in other cases and other income are taxed only in the state of residence.

Measures for Liberalizing Foreign Exchange Transactions to Be Implemented in December 2007

The Ministry of Finance and Economy (MOFE) announced a package of foreign exchange liberalizing measures in November 2007. The latest package includes measures aimed at removing regulatory barriers to meet global standards, creating a market-friendly environment, facilitating transactions among financial institutions upon the enactment of Korea's financial capital markets integration legislation and promoting the internationalization of the Korean Won.

Selected liberalizing measures to be implemented in December 2007 are summarized below.

- Exporters and importers will no longer be subject to a prior approval by the Bank of Korea (BOK) with respect to any export or import transaction exceeding US\$1 million on the remittance basis. The requirement for prior BOK approval will be replaced with reporting requirement to the BOK.
- The reporting to the BOK will replace the requirement of prior approval for the exemption on the collecting obligation against nonresidents or the extension of the collection period. The existing regulations require a domestic company to collect claims of more than USD500,000 against non-residents within 18 months from the date of maturity.

- For borrowings of the Korean won-denominated securities by a non-resident from a resident, the reporting requirement threshold will be raised from 10 billion won to 30 billion won on a cumulative basis. In addition, borrowing the won denominated securities by providing collateral of foreign currencies or foreign currency-denominated securities, which used to be subject to reporting requirement regardless of the amount, will be exempt from the reporting requirement under the increased threshold.
 - When shares traded on overseas stock exchanges are listed on the Korean stock exchange (cross-listing), a prior notification to the MOFE will be required only for initial offering in the domestic market. In addition, the post reporting to the MOFE rather than the prior notification will be required for details of subsequent transactions.
 - The underlying documentation will no longer be required for an annual overseas remittance of US\$50,000 or less.
 - Traders will be exempt from the obligation to submit underlying documents if their annual exports or imports amount to US\$50 million or more in the preceding year, compared with the current exemption threshold of US\$100 million. Electronic agreements and copies of information contained in the Customs Service databases may be submitted as underlying documents, in addition to electronic letters of credit.
 - Offsetting claims of US\$500,000 or less between a resident and a non-resident can be reported to a foreign exchange bank rather than to the BOK.
 - Financial institutions will no longer be obliged to notify to the BOK for credit derivatives or commodity derivatives transaction.
 - In general, no payment can be made for direct investment or property investment overseas before the intended investment is notified to a designated bank. But the payment of up to US\$10,000 may now be allowed, which must be reported within three months.
 - In the case an investment agreement is yet to be finalized, a preliminary notification system will be introduced to allow the advance payment of 10% or less for property investment overseas.
 - The ceiling on won-denominated borrowings by a nonresident from a domestic bank to be exempt from the BOK notification requirements will be raised from 10 billion won to 30 billion won.
- Other liberalizing measures to be implemented in January 2008 or thereafter include:
- Limitations on the purchase of overseas property for investment purposes will be removed by the end of December 2008, one year earlier than scheduled. Currently, an investment in overseas property is limited not to exceed US\$3 million on the remittance basis, while there are no limitations on the purchase of overseas property if its purchaser is the person domiciling in the purchased property.
 - Foreign investors will be allowed to invest in Korean bonds such as government bonds or monetary stabilization bonds through an omnibus account from January 1, 2008. The omnibus account refers to an account held by the International Central Securities Depository in which transactions of

multiple individual account holders are combined and investment outcomes are attributed to individual account holders. Currently, foreign investors wishing to invest in Korean won-denominated bonds must open an account on their own name.

- Some of the existing requirements for notification of capital transactions to the MOFE or the BOK will be phased out by the end of 2009 when most capital transactions would be exempt from the notification requirements and some others will be subject to notification requirement to a foreign exchange bank. However, the existing restrictions will continue to apply for certain capital transactions including won-denominated borrowings by nonresidents, large-scale capital transactions, operations of financial services in overseas markets and the issuance of won-denominated securities by residents or nonresidents.

Supreme Court's Ruling on Stock Options granted by a Foreign Parent Company

The Supreme Court has ruled that the income from exercising certain stock options granted to an ABC Korea's chief executive officer (CEO) by a US parent company, ABC Inc. which owns 100% shares of ABC Korea shall be included in the CEO's wage and salary income subject to Class B income tax. (*Daebeop2007Doo1415, 2007.10.15*)

During his employment with ABC Korea from March 1993 through May 2000, the CEO was granted by XYZ Limited, which was a parent company of ABC Inc., stock options of its Australian subsidiary, XYZ Australia. The stock option conditions provide that the CEO must continue its employment with ABC Korea, shall not transfer the stock options to others and shall exercise the options within 10 years from

the grant. The CEO exercised a portion of his stock options in April, 2000.

The Supreme Court upheld the decision of original judgment which found certain relationship and the economic reasonableness that the options were granted in consideration for the service performed by the CEO for ABC Korea and XYZ Limited directly or indirectly influenced the management and operations of ABC Inc. and ABC Korea. The court concluded that wage and salary income in Article 20, Paragraph 1 of the Individual Income Tax Act covers not only income and economic benefits directly derived from labor or other dependent personal services but also wages constituting terms and conditions of employment on the conditions of personal services.

The Court's ruling also provides that gains from exercising stock option should be attributable to the tax period where the options are exercised and that the exercise gains must be reported in filing the individual income tax return. The ruling states that the statute of limitations on this case is seven years from the filing due date if no income tax filing was made for this gain.

Ruling on Penalty in a Comprehensive Business Transfer under VAT Law

For a comprehensive business transfer, which is not a VATable transaction under the VAT Law, a tax invoice was issued and the recipient of the invoice requested for a refund of the relevant input VAT in filing its VAT return. In this case, the recipient of the invoice will be subject to penalties for underreporting, reporting of excessive refund and underpayment/over-refund under the Basic National Tax Act. However, penalty for incorrect statement is not applicable to this case. (*Seomyon 3 team-2467, 2007.9.3*)

In contrast to other types of business transfers

which are normally subject to VAT, a comprehensive business transfer is not a VATable transaction.

It should also be noted that, in the event a VAT invoice is issued for a comprehensive business transfer, penalties may be imposed against the

improper issuance of VAT invoices and the recipient of the tax invoice may be denied for claiming the input VAT credit, subject to penalties on underreporting and underpayment.

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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SamilPwCAcademy Programs

2007 년 12 월의 교육프로그램

법인세세무조정실무 12월 3일 (월) ~ 12월 7일 (금) 또는 12월 10일 (월) ~ 12월 14일 (금), 총 5 일 (31시간)

결산 및 세무조정 시 유의사항의 비교·설명, 결산과정에서의 세무문제 해결방안 제시, 세무조정계산서 작성실습 및 정확한 작성요령

연말정산실무 12월 4일, 7일, 10일 또는 14일, 1일간 총 7시간

근로소득의 범위, 세액공제 등 연말정산 시 유의사항, 절세 측면에서의 연말정산 실무요령, 관련 법령의 국제청 유권해석 및 실무적용 사례

재무회계입문 12월 5일 (수) ~ 12월 7일 (금), 3일간 총 21시간

회계보드게임을 통한 회계의 흐름에 대한 입체적인 이해, 복식부기의 원리에 대한 체계적이고 상세한 해설 및 사례연습, 전표작성, 결산절차 및 재무제표 작성원리 과정, 계정과목 해설

사례별 원천징수 실무 12월 5일 (수) 1일간 총 7시간

소득종류에 따른 원천징수방법 및 절차, 원천징수관련 규정을 회계처리와 세무처리의 구분/ 비교

외국환거래실무 12월 6일 (목), 1일간 총 7시간

외국환거래 법령에 대한 이해 및 주요 위반사례, 외환자유화 단계와 향후 방향

부가가치세 실무 12월 10일 (금) ~ 12월 14일 (금), 5일간 총 31시간

부가가치세 전반에 걸친 사례 중심 별 해설, 쟁점 별 최신 예규, 국제 심판례, 대법원 판례, 세무조사에 대비한 부가가치세와 법인세 관점

재무제표분석실무 12월 11일 (화) ~ 12월 14일 (금), 4일간 총 24시간

계정분석을 통한 재무제표분석, 재무비율분석, 현금흐름분석, 원가구조분석, 부실징후 분석 등

관리회계전문 12월 11일 (화) ~ 12월 13일 (목), 3일간 총 21시간

관리회계기법을 통한 관리의 효율화 및 기업가치극대화 Solution, 성공적인 관리회계 및 경영관리기법의 사례연구

베트남 & 캄보디아 부동산투자 연수 12월 11일 (화) ~ 12월 15일 (토), 5일간 총 42시간

베트남과 캄보디아 부동산 투자 환경 비교분석 및 해설, 베트남과 캄보디아 도시개발 현장 및 주거, 오피스, 호텔 개발사례 시찰 등

현금흐름표 작성 및 분석실무 12월 17일 (월) ~ 12월 20일 (목), 3일간 총 21시간

현금흐름표 작성방법 및 현금흐름분석 정보의 도출방안, 현금흐름분석을 통한 효율적인 기업경영 사례연구 및 실습

매출채권관리실무 12월 17일 (월) ~ 12월 21일 (금), 4일간 총 24시간

부실채권의 예방 및 사후관리기법, 사례중심의 채권관리

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