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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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Update on Tax Laws

Extension of Temporary Investment Tax Credit until December 2008

The temporary investment tax credit will be extended by one year until the end of December 2008 as part of the government's intent to boost the economy in the short term.

The tax incentive will apply to investments to be made by a qualified company for a period from January 1, 2008 through December 31, 2008. For ongoing investments which had been initiated on or after July 1, 2000, the incentive will also be available for a portion of investment made on or after January 1, 2008.

When a company engaged in any of the 29 types of industries including manufacturing, construction, etc. makes an investment to acquire business assets (excluding used assets) prescribed in the tax law, the Special Tax Treatment Control Law allows the company to credit 7% of the investment amount against its corporate income tax. Also, this credit will be applicable to investments in the *Gaesung* Industrial District in the same manner.

Rules for Land Purchase by Foreign Corporations in Restricted Areas

Like domestic corporations, foreign corporations shall be subject to an advance approval for purchases of land of 20 square meters or greater in certain restricted areas according to the amended rules for utilization of national land, effective on or after January 31, 2008.

As part of the Korean government's effort to promote foreign investments in the country, from February 2000 until the amendment of the rules, foreign corporations were exempt from the advance approval requirement for land purchases in a restricted area as long as such land purchases were reported pursuant to Foreigner's Land Acquisition Act.

Korea's Latest Notice on Tax Havens

The National Tax Service (NTS) has issued a notice designating three countries of Monaco, Liechtenstein and Andorra as tax havens subject to the so-called "controlled foreign corporation (CFC)" rule. The latest notice supersedes a prior notice issued on December 29, 2006 which designated the three countries as well as Liberia and Marshall Islands as tax havens.

In addition to the designated tax havens above, the CFC rule will also apply to a foreign corporation of which the head office is located in those jurisdictions where corporate income tax liability is 15% or lower of net 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 a Korean shareholder who directly or indirectly owns 20% or more of shares in the concerned foreign corporation even if an actual dividend payment is not made to the Korean shareholder.

The latest notice will be applicable from the tax year to be filed on or after February 5, 2008.

Latest Developments in Government Policies

Corporate Income Tax Rate Cut Suggested

Government policy makers have suggested a reduction in the corporate income tax rate as a way to boost the economy. Specifically, the lowest corporate income tax rate for income up to 200 million won would be reduced to 11% for the years from 2008 to 2011 and then to 10% for 2012 and onwards while the highest corporate income tax rate for income in excess of 200 million won would be reduced to 22% for the years from 2008 to 2011, and then to 20% for 2012 and onwards.

Currently, the corporate income tax rates applied are 13% for income up to 100 million won and 25% for any excess income.

The reduction in corporate income tax rates has been revealed as part of a package of economic and fiscal policies for 2008 announced by the Ministry of Strategy and Finance (MOSF) (formerly Ministry of Finance and Economy) on March 10.

Significant proposals contained in the MOSF's economic and fiscal plan for 2008 are summarized below:

- Reduction in the alternative minimum tax rate for small and midsize enterprises (SME) from 10% to 8%;
- Adoption of the advance ruling procedures;
- Increase in a tax credit rate for investment in research and development facilities from 7% to 10%;
- Increase in a tax credit for expenditures for development of technology and manpower;
- Deduction of dividends received by a large corporation from a cooperated SME under the Act on promotion of cooperation between large corporations and SMEs if the large corporation owns non-voting shares in the cooperated SME regardless of its ownership percentage in the SME; and
- Tax deduction received by SMEs in most industries for the transfer of part-time job to full-time job until the end of December 2009 (300,000 Korean won per transferred employee) with an exception for luxury goods and services industries.

The government plans to amend the concerned tax laws and submit them for the National Assembly's approval in the Assembly's temporary session in June 2008.

Korea's Single Administrative Tax Court

Korea's Tax Tribunal was launched under the auspices of the Prime Minister at the end of February 2008. The Tribunal represents the single administrative tax court to assess disputes relating to both national tax (including customs duties) and local tax matters.

Accordingly, taxpayers must file with the Tax Tribunal national tax or local tax appeals which used to be filed with the National Tax Tribunal (NTT) under the Ministry of Finance & Economy, or the Local Tax Deliberation Committee under the Ministry of Government Affairs and Home Administration (MOGAHA), respectively.

Appeals which have already been filed with the NTT or the MOGAHA and are yet to be resolved will be taken over by the Tax Tribunal. Taxpayers must submit to the Tribunal additional documents required for cases that have been already filed.

Despite the launch of the Tax Tribunal, there is no change in other protest procedures, such as objections, requests for examination filed with municipal governors and appeals filed with the Board of Audit and Inspection.

Consolidated Tax Return System Considered

The Ministry of Strategy and Finance has announced the government's plan to introduce a consolidated tax return system in 2008 in consideration of the fact that this tax return system will become an international standard in the corporate taxing system adopted by 21 OECD member countries. Details on when or how to implement the system in Korea have not yet been determined.

As opposed to the current separate tax return filing system, the consolidated tax return system represents a single tax return which derives a

conglomerated corporate income tax base by summing up incomes and losses of all the companies that are economically connected within an affiliated group such as a parent company and subsidiaries.

When the consolidated system is adopted, it would provide companies with more flexibility in structuring business entities as well as an alleviation in tax burdens.

Under the consolidated tax return system, if a parent company earns 30 billion Korean Won (KRW) in income while its two subsidiaries post 20 billion KRW in losses and 10 billion KRW in income, respectively, a tax base should be determined at the amount of 20 billion KRW after offsetting 20 billion KRW incurred by a loss subsidiary (i.e., 30 billion + 10 billion – 20 billion), as opposed to the tax base of 40 billion KRW (i.e., 30 billion + 10 billion) with a carryover loss of 20 billion KRW under the current separate tax return filing system.

NTS Considers Introducing Advance Ruling Procedures

The National Tax Service (NTS) has announced its intent to introduce advance ruling procedures, which would be similar to the private letter ruling issued by the Internal Revenue Service of the US. If introduced, the advance ruling procedures would help taxpayers in removing any confusion and avoiding disputes in respect to income tax liability issues.

The proposed advance ruling would require the tax authorities to issue an advance ruling in response to a taxpayer's request on a tax issue in advance of a contemplated transaction. An advance ruling to be issued by the tax authorities would be binding only in respect to the specific transaction in relation to which the ruling has been sought by the taxpayer. However, the advance ruling would cease to be binding if it is found to have been obtained by fraud or misrepresentation

of the facts of the specific transaction on which the advance ruling was issued.

The Ministry of Government and Home Affairs also plans to introduce the advance ruling procedures as part of an effort to improve the existing local tax audit procedures. The plan would require the local tax authorities to seek a ruling from the superior authorities prior to issuing a tax assessment notice to a local taxpayer in respect to a tax issue, if necessary.

Rulings

Treatment of Signing Bonus

A recent ruling issued by the National Tax Service (NTS) provides that a signing bonus paid in consideration of signing a relevant employment contract does not constitute a non-business purpose loan (i.e., an advance payment not

directly related to the company's business) for corporate income tax purposes if the payment is made on the condition that the paid employee continues to work for the company for the agreed employment period and that the amount should be paid back when the employee leaves the company before the termination of the agreed period.

The latest ruling (Seomyon2team-125, 2008.17) reverses the previous ruling issued in March 2006 (Seomyon1team-402) that characterized the signing bonus as a non-business purpose loan for corporate income tax purposes if the amount of signing bonus does not correspond to the salary temporarily paid in advance to the extent of the employee's monthly basic salary. Also, according to the previous ruling, such signing bonus should be evenly recognized as salary income during the agreed employment period and be withheld at the time of recognition.

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

2008년 3/4월의 교육프로그램

기업회계실무 3월 18일 (화) ~ 3월 21일 (금), 총 4일 (28시간)

기업회계기준 및 기업회계기준서의 계정과목별 해설, 기업회계기준관련 해석적용 및 질의회신 사례해설, 재무회계 핵심 논점에 관한 설명

금융기관PF전문가과정 3월 18일 (화) ~ 3월 21일 (금), 총 4일 (28시간)

위험관리방안, 인허가 등 실무적인 Project Financing에 대한 노하우 제시, 다양한 부동산 개발업무에 따른 Project Financing의 Case Study, 금융기관의 PF 관련 실무자를 위한 핵심 내용

연결회계과정 3월 18일 (화) ~ 3월 20일 (목), 총 3일 (18시간)

연결회계의 기초 개념, 연결결산체계를 갖추기 위한 재무 Process 및 Infra 의 보완방향, 연결 결산 절차, 연결결산 시스템의 구축사례

국제조세실무 4월 1일 (화) ~ 4월 4일 (금), 총 4일 (24시간)

국제거래에서 발생할 수 있는 각종 조세문제의 거래 유형별 해설, 실무에서 발생하는 이전가격 문제의 집중해설, 국제청 국제조세 유권해석 책임자의 실무중심 교육

예산수립 및 관리실무 4월 1일 (화) ~ 4월 4일 (금), 총 4일 (24시간)

Simulation 등 전략적 의사결정을 위한 방안 및 기법, 성과개선을 위한 전략적인 경영계획 프로세스 개선방향

원가관리회계시스템 구축응용 및 진단실무 4월 2일 (수) ~ 4월 4일 (금), 총 3일 (21시간)

원가관리방안 및 원가절감요인, 원가관리시스템 진단 및 활용을 통한 효율성을 극대화 사례분석

사례중심별 원천징수실무 4월 8일 (화) ~ 4월 8일 (화), 1일 (7시간)

소득종류에 따른 원천징수방법 및 절차, 개정 소득세법과 조세특례제한법을 반영한 실무중심의 해설, 원천징수관련 규정을 회계처리와 세무처리로 구분하여 비교 설명

부가가치세 핵심 포인트실무 4월 10일 (목) ~ 4월 10일 (목), 1일 (7시간)

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

세무조사대책실무 4월 11일 (금) ~ 4월 11일 (금), 1일 (7시간)

조사대상의 선정과정 및 주요 세목별 조사사례의 연구를 통한 실무상 유의점 제시

계정과목별 회계와 세무 4월 15일 (화) ~ 4월 18일 (금), 총 4일 (28시간)

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

세무실무기초 4월 15일 (화) ~ 4월 18일 (금), 총 4일 (24시간)

조세법기초, 법인세실무, 소득세와 원천징수, 부가세실무

비영리법인의 회계와 세무해설 4월 22일 (화) ~ 4월 24일 (목), 총 3일 (21시간)

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

샐리 IFRS School 4월 28일 (월) ~ 4월 30일 (수), 총 3일 (18시간)

주요 주제별 국제재무보고기준(IFRS), 국제재무보고기준(IFRS) 실무사례

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