NEWSLETTER

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Tax Group

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Selected 2024 Tax Law Amendment Proposals

On July 25, 2024, the Ministry of Economy and Finance released the 2024 proposed tax law amendment proposals (**Proposals**). The finalization of the Proposals will be subject to further deliberation and approval by the National Assembly. If approved, the Proposals will be implemented from January 1, 2025 unless otherwise specified.

Some of the key Proposals include the following.

1. Extension of special tax regime for shipping enterprises (tonnage taxation) and increase of tonnage tax rate

To enhance the international competitiveness of the shipping industry, the special corporate income tax regime for shipping enterprises (tonnage tax) will be extended by 5 years, until December 31, 2029.

In addition, effective for 3 years starting from January 1, 2025, different rates will apply to so-called 'standard ships' (i.e., ships owned by a shipping enterprise, or used by a shipping enterprise under a bareboat charter), as opposed to 'non-standard ships'. Non-standard ships will be subject to a 30% increased rate for the operating day profit per ton.

2. Tax incentives for shareholder returns (limited to a 3-year period)

New tax incentives will be introduced to promote shareholder returns. These incentives aim to align the interests of management with those of investors, thereby enhancing shareholder returns, increasing capital inflows, and boosting stock values, and to address the so-called 'Korea Discount' issue. There is a sunset provision, with the incentives effective till December 31, 2027 (3-year period):

① New special tax credit to promote shareholder returns

Under the Proposals, when a KOSPI- or KOSDAQ-listed company: (i) discloses a 'Corporate Value Enhancement Plan'; and (ii) increases its shareholder return amounts compared to the previous year and by more than 5% compared to theaverage of the previous three years, there will be a corporate income tax credit equal to the increase in shareholder returns exceeding 5%.

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② New individual shareholders' special taxation for dividend income paid by company with increased shareholder returns

Effective January 1, 2025 - December 31, 2028, which is one year longer than ① above, considering the timing of dividend payments, when a KOSPI- or KOSDAQ-listed company that increases shareholder returns pays dividends, the dividend income received by individual shareholders will be subject to separate, lower tax.

3. Exclusions from distributable profits of valuation gains arising from real estate

In order to encourage indirect real estate investments, valuation gains arising from real estate or other assets held by a Korean real estate investment company will be excluded from the company's distributable profits.

4. Reductions to inheritance and gift and tax (IGT) rates

Under the Proposals, the top IGT rates will be reduced from 50% to 40%. Additionally, the threshold for the lowest 10% rate bracket will be increased from KRW 100 million to KRW 200 million.

Furthermore, the exemption amount for inheritance tax per child will be increased from KRW 50 million to KRW 500 million.

5. Abolition of premium valuation of shares held by the largest shareholder for IGT purposes

To support business succession, the currently law adding a 20% premium to the valuation of shares held by the largest shareholder and related parties, for IGT purposes will be abolished.

6. Expansion in the application of thin capitalization (thin cap) rule to general holding companies

Currently, interest expense paid by both financial and general holding companies on amounts borrowed from foreign related parties is fully deductible (i.e., exempt from the 30% interest deduction limitation rule).

Under the Proposals, interest payments by general holding companies (i.e. those not engaged in financial or insurance business) will no longer be exempt from the thin cap rule capping the net interest deduction at 30% of adjusted income (i.e., EBITDA).

7. Expansion of definition of Korean tax residency for individuals

Effective from January 1, 2026, Korean tax residency for individuals will include not only those who reside in Korea for more than 183 days during a calendar year (as is currently the case), but also those who have resided in Korea continuously for more than 183 consecutive days over two calendar years.

8. Expansion of automatic information exchange to include crypto-assets

Effective from January 1, 2027, as an anti-tax avoidance measure, the automatic financial information exchange system will be expanded to include data on 'crypto-assets'. The term 'crypto asset' refers to digital representation of value that relies on a cryptographically secured distributed ledger or similar technology to validate and secure transactions.

The requirement for the exchange and submission of crypto-asset information will be applicable from January 1, 2027. Due diligence procedures will be applicable from January 1, 2026.

9. Simplification of withholding tax exemption applications by non-residents and foreign companies investing in government bonds

Currently, when non-resident individuals and foreign companies invest in Korean government bonds (as well as Monetary Stabilization Bonds) through a private OIV, it is necessary for each of these investors separately to submit a tax residence certificate and a tax exemption application to claim tax exemption/exemption from withholding tax on interest and capital gains derived from government bonds. By contrast, a public OIV can apply for the exemption application as the deemed beneficial owner, without needing to disclose the underlying investors.

① Simplification of the OIV application process for tax exemption

Under the Proposals, the private OIV itself will be deemed the beneficial owner of interest income and capital gains from government bonds, without the need to identify the underlying investors (as is already the case for public OIVs).

But if any of the underlying investors are Korean residents or domestic companies, they will be permitted to report and pay taxes directly without incurring withholding taxes.

② Establishment of refund application process for non-resident individuals and foreign companies

Under the Proposals, non-resident individuals and foreign companies will also be able to apply for refund of withholding tax on interest and capital gains derived from government bonds directly, not only through withholding agents (as is currently the case).

10. Simplification to Foreign Financial Account (FFA) reporting obligation process

Under the Proposals, taxpayers excluded from FFA reporting obligations will also include: (i) persons who are recognized as residents of another Contracting State pursuant to a tax treaty due to a lawsuit or mutual agreement procedure; and (ii) residents and domestic companies whose FFAs are verified through foreign trust details submitted to the tax authority.

11. Expansion of scope of deemed donation in transactions between a controlled company and its controlling shareholder

When a controlled company benefits from a transaction with a related person of its controlling shareholder, it is deemed that the controlling shareholder has received a donation from the related person, and gift tax is imposed on the controlling shareholder based on the deemed donation. Under the Proposal, this deemed donation will now also include distributions of profits through capital transactions.

12. New compliance requirement for personal services income paid to non-resident individuals and foreign companies without a Korean PE

Currently, when Korean-sourced personal service income is paid to non-resident individuals and foreign companies without a Korean PE, the recipients can receive a withholding tax exemption under a relevant tax treaty without needing to submit any application.

Effective from January 1, 2026, it will become mandatory for such recipients to make an application for exemption/non-taxation, accompanied by supporting documentation.

13. Changes to reporting procedures relating to transfer price adjustments through an amended tax return

Currently, under Korean transfer pricing regulations, taxpayers can claim a tax refund by filing an amended tax return, to adjust a transaction price to the arm's length price.

Under the Proposals, taxpayers will now need to submit proof of the arm's length pricing along with the amended tax return and declaration form for transfer price adjustment. Additionally, the deadline for the Korean tax authority to decide whether to accept or reject such an amended tax return has been extended from 2 months to 6 months after the filing date.

14. Additional Amendments to Global Minimum Tax Rules

To better align the domestic Global Minimum Tax (GloBE) rules with the OECD's Model Rules and Administrative Guidance, the Proposal clarifies definitions of key terms such as 'Group', "Constituent Entity, "Permanent Establishment", and "Partially Owned Intermediate Parent". The proposal also adds new provisions, including exceptions to the De Minimis rules, safe harbor provisions, allocation methods for the top-up tax, and an extension to the GloBE information return filing deadline.

If you require assistance with any international tax matters, including those related to the 2024 tax law amendment proposals, please feel free to reach out to the Lee & Ko Tax Group.

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