Foreign-invested companies in Korea have made significant contributions to creating jobs in Korea and to the nation’s economic growth, and for this the CEOs of foreign-invested companies deserve appreciation.

Creating a favorable business environment for foreigners has always been a top priority for the Korean government. The foreign investment ombudsman system and meetings with the CEOs of foreign-invested companies are part of such government efforts, to name a few. And the National Tax Service (NTS), for its part, has been working to eliminate any taxation-related inconveniences that foreign-invested companies may experience in fulfilling their tax obligations in Korea.

The NTS publishes an annual guide to taxation for foreign companies and foreign-invested companies to aid foreigners’ corporate tax return filing, and the Tax Audit Guide Book to help foreigners with taxation matters in Korea. It also hosts regular Joint Working Group meetings as a communication channel between the NTS and foreign companies.

The NTS has come to publish a new book titled ‘Guide to Taxation in Korea for the CEOs of Foreign-Invested Companies’, as part of a government-wide drive to remove unnecessary regulations on foreign investment.

This book offers an easy explanation of Korea’s taxation system for the CEOs of foreign-invested companies doing business in Korea, and provides useful tax information to enhance the transparency and predictability of government policies.

I believe this book will be a useful guide in planning tax strategies and doing business in Korea, and hope for the success of foreign-invested companies.

October 2015

Suh, Jin-oog
Assistant Commissioner for International Taxation
National Tax Service
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CHAPTER 1

Korean Taxes that CEOs Should Know

1. Corporate Tax
2. Value Added Tax
3. Withholding Taxes
1. Corporate Tax

What is the corporate tax?

Corporate tax is a type of tax that is equivalent to the income tax imposed on individual entrepreneurs. It is a tax imposed on the profit made from a business during a business year (fiscal year).

Filing of corporate tax returns

A company should file corporate tax returns to the tax office with jurisdiction over the company headquarters within three months of the last day of the month in which the last day of the business year belongs by submitting a return of tax base and tax with the following documents attached: financial statements (balance sheet, income statement, statement of appropriations of retained earnings) prepared in accordance with corporate accounting principles, statement of tax adjustment, cash flow statement and other supplementary documents (report on final accounts and supplementary schedules).

Payment of corporate tax

Within the corporate tax return period, corporate tax can be paid electronically, or at the nearest bank or post office. If the tax amount exceeds KRW 10 million, the amount in excess of KRW 10 million (if the tax amount exceeds KRW 20 million, 50 percent of the amount in excess) can be paid in installments over one month (two months for small and medium-sized enterprises).

Obligation to issue and transmit electronic tax invoice

The issuance and transmission of electronic tax invoices was not mandatory for VAT-exempted businesses, and therefore there were limitations in ensuring the transparency of business transactions. In this regard, on Jul. 1, 2015, it became mandatory for businesses to issue electronic tax invoices and to transmit them to the NTS. Also, starting from Jan. 1, 2016, a surtax will be imposed for non-compliance.

<table>
<thead>
<tr>
<th>Non-compliance</th>
<th>Definition</th>
<th>Additional tax rate</th>
</tr>
</thead>
<tbody>
<tr>
<td>Delayed transmission</td>
<td>When invoice is transmitted after the due date and on or before the 11th day of the month following the end of the business year to which the supply period belongs</td>
<td>0.5% of the supply price</td>
</tr>
<tr>
<td></td>
<td>* 0.1% for transmissions made on or before Dec. 31, 2016</td>
<td></td>
</tr>
<tr>
<td>Non-transmission</td>
<td>When invoice is not transmitted by the 11th day of the month following the end of the business year to which the supply period belongs</td>
<td>1% of the supply price</td>
</tr>
<tr>
<td></td>
<td>* 0.3% for transmissions made on or before Dec. 31, 2016</td>
<td></td>
</tr>
</tbody>
</table>
Korean Taxes that CEOs Should Know

2. Value Added Tax

What is value added tax?

Value added tax (VAT) is computed by subtracting the VAT a company paid when purchasing raw materials or goods from the VAT the company collected from the purchaser of its goods or services. In other words, VAT is levied on the added value created by a company in each step of the production, supply or distribution process for goods or services.

Period for filing and payment of VAT

The taxable period for VAT is six months, which is divided into three-month periods. Therefore, businesses should file and pay VAT four times a year.

<table>
<thead>
<tr>
<th>Tax Base &amp; Taxable Period</th>
<th>Period for Tax Filing and Payment</th>
</tr>
</thead>
<tbody>
<tr>
<td>General taxable persons</td>
<td></td>
</tr>
<tr>
<td>1st period</td>
<td></td>
</tr>
<tr>
<td>Preliminary return</td>
<td>Turnover of sales from Jan. 1 to March 31</td>
</tr>
<tr>
<td>Finalized return</td>
<td>Turnover of sales from Apr. 1 to June 30</td>
</tr>
<tr>
<td>2nd period</td>
<td></td>
</tr>
<tr>
<td>Preliminary return</td>
<td>Turnover of sales from July 1 to Sept. 30</td>
</tr>
<tr>
<td>Finalized return</td>
<td>Turnover of sales from Oct. 1 to Dec. 31</td>
</tr>
<tr>
<td>Simplified taxable persons</td>
<td>Turnover of sales from Jan. 1 to Dec. 31</td>
</tr>
</tbody>
</table>

The amount of value added tax is calculated as follows:

\[
\text{Tax payable or refundable} = \text{Output tax} - \text{Input tax} + \text{Penalties}
\]

- Input tax on tax invoices
- Input tax on credit card sales slips, etc.
- Deemed tax input, collected bad debt tax
- Input tax credit for the recycling of scrapped materials, etc.
- Input tax on tax invoice issued by purchaser

(-) Common input tax credit
(-) Non-deductible input tax

Sales \times 10\%
3. Withholding Taxes

What is withholding?

Under the withholding tax system, the payer of income subject to withholding tax (withholding agent) withholds or deducts tax that the recipient of the income (taxpayer) should pay, and pays that tax to the government.

Withholding methods

- Earned income
  - When wage (including bonus) is paid every month, tax is withheld based on the table for simplified tax amounts. In February of the following year, employees submit documentary evidence for income deduction for year-end tax settlement.
  - After the year-end tax settlement period every year, the NTS checks the propriety of income deductions. In this regard, an important tax saving strategy is to avoid penalty tax imposed on excessive deductions.

- Retirement income, interest, dividend, business income, and other income
  - When income is paid, taxes are withheld from the source in accordance with their respective withholding tax rate.
    * When a company pays corporate tax for income from each business year, the withholding tax paid can be deducted as pre-paid tax.

Special taxation for foreign employees

Foreign executives or employees (excluding daily workers) can choose the taxation method that applies a flat tax rate of 17 percent for income (including non-taxable income) earned in Korea on or before December 31, 2016, instead of the basic tax rate (6-38 percent).
CHAPTER 2

Corporate Management and Taxation

1. Tax Saving Vs. Tax Evasion
2. Penalties for False Filing of Tax Returns
3. Receipt and keeping of documentary evidence of expenditure
4. Extension of Due Date for Tax Filing or Payment
5. Wrong Payment of Tax and Remedies
6. Advance Pricing Agreement (APA)
7. System for Preventing Faulty Taxation
8. Advance Ruling System
9. Tax Incentives Prescribed by Tax Laws
11. Faithful Taxpayer Incentive Scheme
Corporate Management and Taxation

1. Tax Saving Vs. Tax Evasion

**Difference between tax saving and tax evasion**

Tax saving refers to cutting back on tax through lawful and reasonable means recognized by tax-related laws.

On the other hand, tax evasion refers to the act of deliberately reducing tax through illegal means such as under-reporting revenue, inflating costs, and using another person’s name.

A company may manipulate the books to pay less tax, but such illegal acts are mostly discovered by verification of tax returns, checking the tax records database, and electronic assessment of tax returns before the statute of limitations on tax collections.

Even if a company has been unaware that its accounting practices constitute tax evasion, the amount of tax that has been unpaid in the past shall be collected in lump sum. This may cause serious business disruptions and the company may even face criminal charges for tax evasion.

In this regard, businesses are advised to take advantage of the tax incentives permitted under tax-related laws while avoiding aggressive tax planning as it is closer to tax evasion than tax saving.

CEOs’ commitment to save tax through legal means and ensure accurate tax returns can enhance corporate management and prevent future risks.

2. Penalties for False Filing of Tax Returns

**Imposition of additional taxes**

Additional taxes are imposed for the non-reporting or under-reporting of corporate tax, etc. In particular, if a taxpayer fails to report or under-reports in an unjust manner, 40 percent (60 percent in the case of international transactions) of the calculated tax amount is imposed as additional tax for insincere tax returns.

**Additional imposition of composite income tax for companies**

If a company has underpaid corporate tax by under-reporting revenue or inflating costs, the underpaid tax (including additional tax) shall be collected. In addition, it will be considered that the under-reported amount is paid as a bonus or dividend to the person who took the under-reported amount (the representative of the company if the person who took the under-reported amount is unclear) and a composite income tax will be additionally imposed.

**Selection as subject of tax investigation**

A company’s tax returns and attached documents are recorded in the National Tax Service (NTS) database. Based on the data, the NTS conducts an evaluation on all companies to verify the propriety of returns. Companies classified as insincere taxpayers are subject to tax investigation.
3. Receipt and keeping of documentary evidence of expenditure

Why it is important to keep documentary evidence of expenditure

When a company supplies or is supplied with goods or services, it should provide or receive documentary evidence such as tax invoice, invoice (VAT exempted), credit card sales slip or cash receipt.

Without documentary evidence of expenditure, it is hard to prove the objects of expenditure, and in the case of transactions in excess of KRW 30,000, two percent of the unproven amount is imposed as additional tax.

Also, entertainment expenses exceeding KRW 10,000 (KRW 200,000 in the case of expenditures for congratulations and condolences) are recognized as expense only when a corporate credit card sales slip, tax invoice, invoice or receipt for earned income tax withholding is received. Even if a credit card is used, entertainment expenses cannot be recognized as expense if the sales slip is issued in the name of a different store. Therefore, it is important to check if the name and address of the store on the credit card sales slip are accurate.

Purchase of goods and taxation

Purchasing raw materials for construction sites, etc. without receiving documentary evidence (i.e., tax invoice) to save costs may result in additional tax.

This is because without documentary evidence of expenditure, the purchaser cannot receive value added tax (VAT) deduction equivalent to 10 percent of the purchase price and also has to pay additional corporate tax.

If a company purchases a false tax invoice from a false VAT invoice issuer to reduce the tax burden from cash purchases, the company will be able to receive input tax deduction and the false tax invoice may be used as documentary evidence of expenditure. However, such fraudulent transactions with a false tax invoice issuer are detected through an electronic tax filing analysis system.

If an entrepreneur is accused of using false tax invoice, such fact will be notified to the district tax office and the investigation bureau of the regional tax office. In addition, the entrepreneur will be imposed with additional VAT and corporate tax for the fraudulently reduced tax amount and also be subjected to an intensive tax investigation. An entrepreneur that is confirmed to have dealings with a false VAT invoice issuer will be punished in accordance with the Punishment of Tax Evaders Act.
4. Extension of Due Date for Tax Filing or Payment

If a taxpayer’s business is disrupted due to disasters, etc., tax payment can be postponed through an extension of the due date for payment or a deferment of tax collection.

Extension of due date for payment

In the case of taxes to be voluntarily reported and paid, an application for approval of an extension of the due date for payment should be submitted at least three days before the due date.

* An application for an extension of the due date can be made in the following cases:

- Where a natural disaster has occurred
- Where a taxpayer suffered from fire, damage from war or other calamities or is robbed
- Where a taxpayer or a family member living with him/her is critically ill, or has died and is in mourning
- Where the taxpayer’s books or documents are seized or provisionally held by any authoritative agency
- Where there is a reason equivalent to those under ②-④
- Where a taxpayer suffers serious losses from his/her business or his/her business is in a major crisis
- Where the normal operation of the information and communications networks of the Bank of Korea (including its branches) and communications offices is impossible due to power failure, error in programs or any other inevitable grounds
- Where the Commissioner of the National Tax Service deems it difficult to pay taxes normally due to the holidays of financial institutions
- Where the tax accountant (tax firm) or certified public accountant (accounting firm) that keeps the books of the taxpayer’s business has suffered from fire, damage from war or other calamities or is robbed

☞ The due date for application, claim or document submission, etc. can be extended by up to three months (an additional extension by up to one month is permitted), while the due date for tax returns and payments can be extended by up to nine months. Deferment of collection

Deferment of collection

If a taxpayer received a notification of tax payment, an application for the deferment of collection should be submitted at least three days before the payment due date.

* Reasons for deferment of collection

- Where serious damage or loss has been inflicted on the taxpayer's properties due to theft or disasters
- Where the taxpayer's business has suffered significant damage or loss
- Where the taxpayer's business is in serious crisis
- Where the taxpayer or family members living with him/her requires/require long-term medical treatment due to a serious disease or injury
- Where there is a reason equivalent to ①-④
- Where a procedure for mutual agreement is in progress

☞ Deferment of collection is permitted for up to nine months.
5. Wrong Payment of Tax and Remedies

Correction of tax return

Where a company that filed a corporate tax return within the statutory due date of return has reported a tax base and tax less than the amount to be reported pursuant to the provisions of tax-related acts, a revised tax return can be filed before the head of the relevant tax office notifies the correct amount. The additional tax for under-reporting shall be reduced by 50 percent for revised returns filed within six months of the due date of return; 20 percent for those filed after six months and within a year; and 10 percent for those filed after one year and within two years.

* If the amount of reported tax base and tax exceeds the correct amount to be reported, the amount paid in excess can be refunded through the request of a correction within five years of the statutory due date of return.

Request for review of legality prior to taxation

If a company that received a tax investigation report or an advance notice of taxation objects to the content of the report or notice, a request for review of legality prior to taxation can be filed to the head of the relevant district tax office, regional tax office or National Tax Service within 30 days of the receipt of the report or notice, except when causes for collection before the payment period or occasional levying of tax exist.

Filing of objection to imposition of tax

Any person whose rights or interests have been infringed upon through the receipt of an unlawful or unreasonable disposition or due to failure to receive a required one under tax-related acts may request an examination (National Tax Service) or an adjustment (Tax Tribunal) within 90 days of the date on which the taxpayer became aware of the disposition.

Before filing a request for examination or adjustment, a taxpayer may file an objection to the district or regional tax office within 90 days of the day of becoming aware of the disposition. If an objection is filed, a request for examination or adjustment can be made within 90 days of the receipt of a written decision on the objection.

If a remedy cannot be provided through a request for examination or adjustment, an administrative suit can be filed to the jurisdictional (administrative) court within 90 days of the date of the receipt of a written decision on the request for examination or adjustment.

* Electronic objection filing system introduced on Feb. 23, 2015

[Procedure for filing an objection]
6. Advance Pricing Agreement (APA)

What is an APA?

An Advance Pricing Arrangement or Advance Pricing Agreement (APA) is an arrangement agreed upon between a taxpayer and the NTS on the application of transfer pricing methodology (TPM) in determining an arm’s length price in advance of future international transactions with foreign-related parties.

Once an APA is concluded, the taxpayer can use the APA approved by the Commissioner of NTS as the most appropriate method during the covered APA term as long as the taxpayer complies with the critical assumptions.

If a taxpayer requests a bilateral APA between the NTS and the foreign tax authority that governs the taxpayer’s transaction counterpart on the desired TPM, the TPM can be recognized as the most appropriate method in both countries.

The APA process

The APA process consists of the following steps:

- Pre-filing meeting → Evaluation → Mutual Agreement Procedure → Finalization of APA → Submission of annual report

The relationship between APAs and tax audits

In general, tax audits are not suspended by a taxpayer’s APA request. However, even if a taxpayer is to undergo a tax audit, an audit on the transfer price of international transactions for the period covered by the APA can be suspended if an APA for the transaction has been requested before the pre-notice of a tax audit.

However, if the taxpayer requests an APA but fails to submit the necessary documents prescribed by Article 9 of the Enforcement Decree of the Adjustment of International Taxes Act, the request shall be deemed invalid, and therefore, the taxpayer will not be granted a suspension of audit.

7. System for Preventing Faulty Taxation

System for assessing the cause of objections to taxation

For administrative appeals for taxation review (i.e., review of legality prior to taxation, appeal for review, appeal for examination, appeal for judgement) that have been accepted, an analysis is conducted on why the appeals were filed. If the analysis finds that a faulty taxation was caused by poor fact-checking or improper application of law, the tax preparer is held accountable. Also, research is done to identify and improve laws and regulations that cause faulty taxation. Such measures are to prevent the recurrence of similar faulty taxations.

Operation of an advisory committee on tax disputes

In respect to tax-related disputes with taxpayers that require deliberation, an advisory committee offers practical advice before taxation in order to prevent faulty taxation.

National Tax Law Information System

The National Tax Law Information System provides various tax law-related information so that taxpayers can better understand tax-related laws and tax officials can accurately examine the conditions for taxation.

The National Tax Law Information System (Korean only) can be accessed through the NTS website (http://nts.go.kr).
8. Advance Ruling System

The advance ruling system provides a clear ruling with regard to a specific transaction of a taxpayer’s business, provided that a ruling is requested by the legal due date for tax return filing with the disclosure of the taxpayer’s identity and the specific facts and circumstances of the transaction in question.

Before the system was introduced, many taxpayers inquired on the interpretation of tax laws under another person’s name or a false name. In some cases, taxpayers’ inquiries distorted or omitted certain facts, so it was difficult to provide a clear and accurate answer.

Because of the difference with actual facts, the protection of taxpayers based on the principle of good faith was limited.

With the introduction of the advance ruling system, both domestic companies and foreign companies can receive a fast and accurate answer on their inquiries on the interpretation of tax laws.

Also, taxpayers can handle tax-related matters based on the answers provided under the system, which will resolve tax-related difficulties in doing business.

How to request a ruling

Download the application form at the National Tax Service website (http://www.nts.go.kr Korean only). Complete and submit the form to the NTS Commissioner (Manager of Legal Affairs Division) via postal mail.

9. Tax Incentives Prescribed by Tax Laws

Location of business establishment and tax

The amount of tax to be paid greatly differs depending on the location of a business.

[Comparison of Corporate Tax by Location]

<table>
<thead>
<tr>
<th>Classification</th>
<th>Tax Incentive</th>
<th>Seoul Metropolitan Area</th>
<th>Other Areas</th>
</tr>
</thead>
<tbody>
<tr>
<td>Area</td>
<td></td>
<td>Over-concentration</td>
<td></td>
</tr>
<tr>
<td>Control Areas</td>
<td></td>
<td>Seoul Metropolitan City,</td>
<td>Seoul</td>
</tr>
<tr>
<td></td>
<td></td>
<td>parts of Incheon and</td>
<td>metropolitan</td>
</tr>
<tr>
<td></td>
<td></td>
<td>Gyeonggi Province</td>
<td>area covering</td>
</tr>
<tr>
<td></td>
<td></td>
<td>(Areas inside the Seoul</td>
<td>Seoul and parts of Incheon and</td>
</tr>
<tr>
<td></td>
<td></td>
<td>metropolitan area that is not an over-concentration control area</td>
<td></td>
</tr>
<tr>
<td></td>
<td>Tax reduction/exemption for small and medium start-ups (Article 6 of the Act)</td>
<td>50% tax reduction for 5 years</td>
<td>Not applicable (Applicable if a company is recognized as a venture company within 3 years from business start-up.)</td>
</tr>
<tr>
<td></td>
<td>Special tax reduction/exemption for SMEs (Article 7 of the Act)</td>
<td>5-30% tax reduction every year</td>
<td>- 10% reduction for medical, wholesale and retail businesses - 20% reduction for businesses other than the above</td>
</tr>
<tr>
<td></td>
<td>Medium-sized companies</td>
<td>- No tax reduction/exemption (10% reduction for knowledge-based industries)</td>
<td>- 5% reduction for medical, wholesale and retail businesses - 15% reduction for businesses other than the above</td>
</tr>
<tr>
<td></td>
<td>Tax deduction for investment (Article 130 of the Act)</td>
<td>Excluded from tax deduction (permitted for SMEs’ investment in equipment replacement)</td>
<td>Deduction permitted</td>
</tr>
</tbody>
</table>

※ The “Act” refers to the Restriction of Special Taxation Act
Corporate Management and Taxation

* Tenant companies in agro-industrial complexes satisfying certain conditions, and small and medium-sized companies moving into Neju industrial complex, Gimje Horizon industrial complex and Bukpyeong industrial complex (including tourist accommodation businesses moving into abandoned mine promotion districts) enjoy the same tax benefits as small and medium start-ups.

* Companies that meet certain qualifications moving into special research and development zones, Jeju Science Park, Jeju Free Trade Zone, enterprise city development zones, Hub City of Asian Culture promotion zones, financial hubs or high-tech medical complexes are entitled to corporate tax reduction - 100 percent reduction for three years and 50 percent reduction for the following two years (The total amount of tax reduction is decided based on the total amount of investment and the number of full-time employees.)

* If company that has operated overseas for two years or longer relocates to Korea (outside the Seoul metropolitan area) and starts a business or establishes a new business establishment by Dec. 31, 2015, or if a small and medium sized company operating overseas without any manufacturing facility in Korea starts a business or establishes a new business establishment, corporate tax will be reduced by 100 percent for five years (or three years) and 50 percent for two years thereafter.

Tax credits for Small and Medium Enterprises (SMEs)

The tax reduction rate for SMEs depends on the type and size of a business

* Companies with total assets of KRW 500 billion or more that operate a business suitable for small and medium-sized enterprises (manufacturing, construction, etc.), meet the standards on amount of sales set forth in the Framework Act on Small and Medium Enterprises, and whose actual independence of its management from ownership is not applicable to the conditions set forth in Article 3 (1) 2 of the Enforcement Decree of the Act are eligible for various tax incentives for SMEs.

[Tax Incentives for SMEs]

<table>
<thead>
<tr>
<th>Incentive</th>
<th>Details</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Tax reduction &amp; exemption</strong></td>
<td>- Tax deduction (3%) for investment by SMEs</td>
</tr>
<tr>
<td></td>
<td>- Tax reduction (50%) for small and medium start-ups and venture companies</td>
</tr>
<tr>
<td></td>
<td>- Special tax reduction (5-30%) for SMEs</td>
</tr>
<tr>
<td></td>
<td>- Tax reduction (50-100%) for businesses relocating to areas outside over-concentration</td>
</tr>
<tr>
<td></td>
<td>control areas in Seoul metropolitan area</td>
</tr>
<tr>
<td></td>
<td>- Deduction of social insurance premium for newly employed workers</td>
</tr>
<tr>
<td></td>
<td>- Tax deduction for SMEs employing career-interrupted women</td>
</tr>
<tr>
<td><strong>Inclusion in deductible expense</strong></td>
<td>- Inclusion of informatization subsidies in expense (SMEs under the Framework Act on</td>
</tr>
<tr>
<td></td>
<td>Small and Medium Enterprises)</td>
</tr>
<tr>
<td></td>
<td>- Inclusion in deductible expense for SME support facilities</td>
</tr>
<tr>
<td></td>
<td>- Special taxation for SMEs retaining employees (SMEs under the Framework Act on Small</td>
</tr>
<tr>
<td></td>
<td>and Medium Enterprises)</td>
</tr>
<tr>
<td><strong>Others</strong></td>
<td>- Application of minimum tax rate (7% for SMEs, 10-17% for non-SMEs)</td>
</tr>
<tr>
<td></td>
<td>* 8% tax reduction for three years from graduation from SME designation and 9% reduction for the following two years</td>
</tr>
<tr>
<td></td>
<td>* Minimum tax rate for non-SMEs with tax base exceeding KRW 100 billion raised from 16% to 17% (effective from 2014)</td>
</tr>
<tr>
<td></td>
<td>- Higher ceiling for entertainment expenses</td>
</tr>
<tr>
<td></td>
<td>- Carried-forward taxation of capital gains tax for mergers between SMEs</td>
</tr>
<tr>
<td></td>
<td>- Refund through retroactive deduction of deficit</td>
</tr>
<tr>
<td></td>
<td>- Permission of tax reduction or exemption for investment in equipment replacement in</td>
</tr>
<tr>
<td></td>
<td>over-concentration control areas in Seoul metropolitan area</td>
</tr>
<tr>
<td></td>
<td>- Semi-annual payment of withholding tax (For companies with 20 or less full-time</td>
</tr>
<tr>
<td></td>
<td>employees in the preceding year which obtained approval for semi-annual payment.</td>
</tr>
<tr>
<td></td>
<td>Companies engaging in finance and insurance businesses are excluded.)</td>
</tr>
<tr>
<td></td>
<td>- Extension of installment period for payment of corporate tax</td>
</tr>
</tbody>
</table>
Corporate Management and Taxation

Tax incentives for facility investment

Because facility investment by businesses creates jobs and stimulates the economy, tax incentives such as tax deduction are provided for facility investments.

[Tax Reduction/Exemption for Facility Investment]

<table>
<thead>
<tr>
<th>Tax Incentive</th>
<th>Details</th>
</tr>
</thead>
</table>
| Tax deduction | - Tax deduction for investments that create jobs: In non-SMEs, the number of full-time employees should not be reduced, while in SMEs, deduction is granted even if the number of employees decreases (However, in this case, KRW 10 million shall be subtracted for each decreased employee from the basic deduction amount)  
  ① Basic deduction:  
  - SMEs: 3% of the investment amount in the taxable year  
  - Mid-sized companies: 1-2%  
  - Large companies: Not applicable  
  ② Additional deduction: The lesser between the following amounts:  
  - 3-4% of the investment amount for large companies (4-5% for SMEs and mid-sized companies)  
  - KRW 10-20 million per increased employee  
  ※ An additional 1% deduction is granted for service businesses prescribed by Presidential Decree  
  - Tax deduction for investment by SMEs: 3% of the investment amount  
  - Tax deduction for investment in facilities for enhancing safety, productivity and energy efficiency  
  - Tax deduction for investment in facilities for employee welfare: 7% of the investment amount (10% for unsold housings outside the Seoul metropolitan area and workplace childcare centers) |
| Others | - Separate taxation of interest income from social overhead capital bond, etc. |

Tax incentives for R&D

Tax incentives are provided for R&D investment in new growth driver technologies, source technologies, etc.

[Tax Incentives for Research and Manpower Development Expense]

<table>
<thead>
<tr>
<th>Tax Incentive</th>
<th>Details</th>
</tr>
</thead>
</table>
| Tax deduction | - 20% of new growth driver research expense and manpower development expense (30% for SMEs)  
  - 20% of source technology research expense and manpower development expense (30% for SMEs)  
  - Tax deduction for general research expense and manpower development expense  
  - Deduction for incurred expense: Expense for the taxable year X 3-4% (25% for SMEs)  
  - SMEs: 15% deduction for 3 years from graduation from SME designation and 10% deduction for the following 2 years; Mid-sized companies: 8% deduction  
  - Deduction for increased expense: [Expenditure for the taxable year-Expenditure for the previous taxable year (average expenditure for the past three years in the case of 2014)]× 40% (50% for SMEs)  
  - Tax deduction for facility investment for R&D  
  - Facilities: Assets for R&D purpose, etc.  
  - Deducted amount:  
    - SMEs: 10% of the investment amount  
    - Mid-sized companies: 5% of the investment amount  
    - Other companies: 3% of the investment amount  
  ※ An additional 1% deduction is granted for service businesses prescribed by Presidential Decree  
  - Tax deduction for investment by SMEs: 3% of the investment amount  
  - Tax deduction for investment in facilities for enhancing safety, productivity and energy efficiency  
  - Tax deduction for investment in facilities for employee welfare: 7% of the investment amount (10% for unsold housings outside the Seoul metropolitan area and workplace childcare centers) |
| Others | - Exclusion of R&D related contributions from gross revenue |

The foreign financial account report system requires Korean residents or domestic corporations in Korea to report information on their foreign financial accounts, if the aggregate balance of all foreign financial accounts exceeds KRW 1 billion as of the end of any month in the relevant year. The report should be filed with the tax office from June 1 to 30 of the following year.

**Persons and companies obligated to file a foreign financial account report**

- Residents or domestic corporations not exempt from reporting as of the last day of the year subject to reporting
- (Foreign nationals residing abroad) A Korean national residing abroad whose total period of residence in Korea from two years before the end of the relevant year subject to reporting is not more than one year
- (Foreign residents) A foreign resident who has had his/her domicile or place of residence in the Republic of Korea for more than five years in total from ten years before the end of the relevant year subject to reporting

* When the nominal owner and the actual owner of an account are different, both the nominal and actual owners should file a report. When an account is jointly owned, each of the respective joint owners of the account should file a report.

**Amount to be reported**

Where the sum of the assets subject to reporting exceeds KRW 1 billion on any last day of each month of the year subject to reporting, the highest amount of the remaining balance should be reported.

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**Tax incentives for M&As**

To facilitate corporate restructuring, various tax incentives are provided for corporate mergers and divisions that satisfy certain conditions.

**[Tax Support for Corporate Mergers & Divisions]**

<table>
<thead>
<tr>
<th>Incentive</th>
<th>Details</th>
</tr>
</thead>
</table>
| Tax incentives for corporate mergers or divisions (Mergers or divisions on or after Jul. 1, 2010) | - Deduction of the merged or divided entity’s deficit carried forward  
- Revised durable years applied to succeeded depreciable assets  
- Tax incentives for the merged (divided) entity and its shareholders  
- Postponement of taxation on profit or loss from the transfer of assets due to corporate merger or division  
- Book value applied to the tax base when taxing fictitious dividends  
- For physical divisions, the gains on transfer of assets are included in deficit  
* Taxation is based on the income for each business year, and income from liquidation is not taxed. |

| Other tax incentives for restructuring | - Transfer income tax for merger between SMEs is carried forward  
- Transfer income tax for conversion to corporation is carried forward  
- Special taxation for gains on exemption from debt arising from financial structure improvement plans, etc.  
- Special taxation for establishment of a holding company through investment-in-kind of stocks, etc.  
- Special taxation for transfer of overlapping assets arising from mergers, etc. |

**Tax support aftercare**

Where a business violates the regulations set forth in tax-related laws after receiving tax support, the reduced tax and its interest are collected.

**[Collection of reduced tax]**

- Where more than one tax deduction has been received for a single investment  
- Where investment funds have not been executed within the set period  
- Where the assets for which tax deduction was granted are disposed of within two years
11. Faithful Taxpayer Incentive Scheme

About the scheme
The faithful taxpayer incentive scheme is an agreement between the NTS and companies where the NTS exempts regular tax audits in return for companies promising to pay taxes faithfully, so that faithful taxpayers can be focus on business.

Eligibility
Companies with income of KRW 50 billion or more and less than KRW 500 billion with a proper internal tax control system in place.

Benefits and incentives
- Taxes subject to the scheme: All taxes reported and paid by companies, such as corporate tax and value added tax
  * Corporate grievances on tax-related matters and suggestions on improving the tax system are reflected to the tax system.
- Exemption from regular tax audits: If a company under a tax incentive agreement is recognized as a faithful taxpayer by faithfully abiding by the agreement and resolving major tax related issues, the company shall be exempted from regular tax audits
- Fast and accurate resolution of tax-related issues: Because tax-related issues are discussed directly with the tax authorities, tax issues can be resolved faster and more accurately than receiving a response to an inquiry.
- On-site resolution of grievances: Through on-site meetings with a dedicated team from the NTS, tax-related grievances are resolved immediately.
- Enhancement of corporate credibility: On the request of companies, the NTS discloses a list of companies that are parties to the agreement on its website in order to enhance corporate credibility.

Penalties for not reporting or under-reporting foreign financial accounts
- Fine: Up to 20 percent of the unreported (under-reported) amount
- Explanation of source of unreported or under-reported amount: If a person fails to submit an explanation of the source of the unreported or under-reported amount, a fine equivalent to 20 percent of the amount which has not been explained or falsely explained will be imposed.
- Disclosure of personal information: If the unreported or under-reported amount exceeds KRW 5 billion, the account owner’s personal information can be disclosed.
- Criminal punishment: If the unreported/under-reported amount exceeds KRW 5 billion, he/she shall face imprisonment of not more than two years and/or a fine of up to 20 percent of the unreported/under-reported amount.

Reward for report
A reward of up to KRW 2 billion will be paid to a person who provided important information (e.g., account number, account balance) that helped uncover an unreported/under-reported foreign financial account.

* The reward is paid even if the recipient is also eligible for a reward for reporting tax evasion or tax defaulters’ hidden assets.
CHAPTER 3
Tax Support for Foreign Investors

1. Tax Support for Foreign-Invested Companies
2. Investment Requirements for Tax Reduction and Exemption
3. Application for Tax Reduction or Exemption
4. Reduction or Exemption of Corporate Tax
Tax Support for Foreign Investors

1. Businesses accompanying high technology, industry-supporting service businesses (Article 121-2 (1) 1 of the Act)
2. Large-scale projects conducted by companies moving into individual-type foreign investment zones, free trade zones, etc. which have undergone the deliberation of relevant committees (Article 121-2 (1) 2 of the Act)
3. Businesses conducted by companies in Free Economic Zones (Article 121-2 (1) 2-2 of the Act)
4. Businesses conducted by a free-economic zone development project entity (Article 121-2 (1) 2-3 of the Act)
5. Businesses conducted by a development project entity for the Jeju investment promotion zone (Article 121-2 (1) 2-4 of the Act)
6. Businesses conducted by companies in complex-type foreign investment zones (Article 121-2 (1) 2-5 of the Act)
7. Businesses conducted by companies in enterprise city development zones
8. Businesses conducted by a development project entity in enterprise city development zones (Article 121-2 (1) 2-7 of the Act)
9. Other businesses prescribed by Presidential Decree (Article 121-2 (1) 3 of the Act)
10. Businesses conducted by companies in Saemangeum project areas or project entities designated by the Special Act on Promotion of the Saemangeum Project (Article 121-2 (1) 2-8, 9 of the Act)

The “Act” refers to the Restriction of Special Taxation Act
Tax Support for Foreign Investors

1. Tax Support for Foreign-Invested Companies

Overview

As part of Korea’s foreign investment liberalization policy, the list of businesses in which foreign investment is permitted was changed from a positive list system to a negative list system in 1984. The list also stipulates foreign-invested businesses that are subject to tax reduction or exemption, such as businesses accompanying high technology.

Chapter 5 of the Restriction of Special Taxation Act (Special Cases Concerning Taxation for Foreigners’ Investment, etc.) stipulates most of the tax incentives provided to foreign-invested companies. Technically, foreign-invested companies are domestic companies with its headquarters located in Korea. In this regard, they are treated in the same way as domestic companies in respect to the computation of corporate tax, filing of corporate tax, etc. Also, the same provisions concerning tax reduction or exemption from the Restriction of Special Taxation Act apply to both foreign-invested companies and domestic companies. However, because special cases concerning the taxation of foreign investment, etc. prescribed by the Restriction of Special Taxation Act apply exclusively to foreign-invested companies, the companies should consider such provisions when filing a return of corporate tax, etc.

Tax incentive schemes

In order to facilitate the transfer of high technology and the attraction of foreign capital, the Korean government provides various tax incentives for foreign investments. The tax reduction and exemption schemes that foreign-invested companies can benefit from are as follows:

- Reduction or exemption of corporate tax and income tax for income generated from businesses subject to tax reduction or exemption
- Reduction or exemption of acquisition tax and property tax for properties acquired or held by foreign-invested companies
- Reduction or exemption of customs duty, special excise tax and value added tax for imported capital goods

2. Investment Requirements for Tax Reduction and Exemption

<table>
<thead>
<tr>
<th>Eligible Businesses</th>
<th>Investment Requirements, etc.</th>
<th>Corporate tax, income tax reduction</th>
</tr>
</thead>
<tbody>
<tr>
<td>Manufacturing business: USD 30 million or more</td>
<td>Total corporate tax: USD 20 million or more</td>
<td>7 year reduction</td>
</tr>
<tr>
<td>R&amp;D: USD 2 million or more</td>
<td>Total income tax: USD 10 million or more (including tax refund)</td>
<td>7 year reduction</td>
</tr>
<tr>
<td>Logistics business: USD 5 million or more</td>
<td>Total business tax: USD 10 million or more</td>
<td>7% reduction for the first 5 years</td>
</tr>
</tbody>
</table>

Eligible Businesses

- Companies in a foreign investment zone (industrial type) as prescribed by Article 19 (1) of the Foreign Investment Promotion Act and companies in a free trade zone, Saemangeum project area, Jeju advanced science and technology complexes, etc.
- Companies in a special economic zone or a free economic zone
- Foreign-invested companies operating in a free economic zone
- Free economic zone development project entity (Subparagraph 2-2)
- Businesses in the Saemangeum project area or development project entities prescribed by the Saemangeum Act on Promotion of the Saemangeum Project
- Development project entities (Subparagraph 2-7)
- Businesses to which a tax reduction or exemption is inevitably allowed (Subparagraph 3-4)

* A manufacturing facility (or business establishment) should be installed or operated.
* Foreign investment of USD 30 million or more
* Foreign investment ratio of 50% or higher

Guide to Taxation in Korea For CEOs of Foreign-Invested Companies

For CEOs of Foreign-Invested Companies

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Guide to Taxation in Korea
3. Application for Tax Reduction or Exemption

To receive a tax reduction or exemption, a foreign-invested company should make an application to the Minister of Strategy and Finance (the administrator of a free trade zone in the case of foreign investment in a free trade zone).

**Decision and notification of tax reduction or exemption**

Upon receipt of an application for tax reduction or exemption, the Minister of Strategy and Finance shall consult with the ministers of other relevant ministries and the head of the relevant local government and make a decision on whether to grant the reduction or exemption.

The decision shall be made within 20 days from the day on which the application was made. Upon making a decision, the Minister of Strategy and Finance shall notify the applicant, the Commissioner of the National Tax Service, the Commissioner of the Korea Customs Service, and the head of the relevant local government. In inevitable circumstances, the decision-making period may be extended within 20 days.

If a person receives a preliminary notice of determination by the Minister of Strategy and Finance that his/her business is not eligible for tax reduction or exemption, he/she may file a request to the Minister, in writing, for a review of the appropriateness of the determination within 20 days from the date on which the notice has been delivered, with supporting materials attached.

**Tax reduction/ exemption application period**

1. New investment: An application should be made by the last day of the taxable year to which the date of business commencement belongs.

2. The capital increase shall be considered a new foreign investment, and not a case of capital increase.

3. Where any foreign investor or foreign-invested company alters the business contents subject to a decision on tax reduction or exemption and intends to have any reduction or exemption applied to the modified business, an application for modification of the contents of tax reduction or exemption should be made no later than the date on which two years elapse from the date on which the causes of the relevant modification occur.

**Application for tax reduction/ exemption after the application period**

Where a foreign investor or foreign-invested company obtains a decision on reduction or exemption by applying for reduction or exemption after the application period, the relevant decision shall be applied only to the taxable year in which the date of such application falls, and to the remainder of the reduction or exemption period thereafter. In such cases, where there exists any tax amount already paid prior to a decision on reduction or exemption, the relevant tax amount shall not be refunded.
4. Reduction or Exemption of Corporate Tax

Income subject to tax reduction or exemption

Corporate tax reduction or exemption for foreign-invested companies only applies to the income generated by operating a business subject to tax reduction or exemption under the Restriction of Special Taxation Act (Article 121-2 (1)).

Tax reduction/exemption period (Article 121-2 (2) of the Restriction of Special Taxation Act)

- Seven years (100 percent reduction for the first five years and 50 percent for the following two years)
  - Industry supporting service businesses and businesses accompanying high technology (Subparagraph 1)
  - Companies in a foreign investment zone (individual type) as prescribed by Article 18 (1) 2 of the Foreign Investment Promotion Act and companies in a free trade zone, Saemangeum project area, Jeju advanced science and technology complexes, Jeju investment promotion zone, etc. that have undergone deliberation and approved by the relevant committees (Subparagraph 2)

* Companies in a free export zone are granted the same tax reduction as companies in a foreign investment zone (individual type)

- Five years (100 percent reduction for the first three years and 50 percent for the following two years)
  - Companies in a free economic zone (Subparagraph 2-2)
  - Business run by a foreign-invested company that is a free economic zone development project entity (Subparagraph 2-3)
  - Business run by a foreign-invested company designated as an entity of the project for the development of Jeju investment promotion zone (Subparagraph 2-4)
  - Business run by a foreign-invested company located in a foreign investment area under Article 18 (1) 1 of the Foreign Investment Promotion Act (Subparagraph 2-5)
  - Business run by a foreign-invested company located in any enterprise city development area (Subparagraph 2-6)
  - Business run by a foreign-invested company designated as an entity of the enterprise city development project (Subparagraph 2-7)
  - Business run by companies in Saemangeum project areas or project entities designated by the Special Act on Promotion of the Saemangeum Project (Subparagraph 2-8, 9)
  - Other businesses for which tax reduction or exemption is inevitable (Subparagraph 3)

Initial date in reckoning the period for tax reduction or exemption

The initial date in reckoning the period for tax reduction or exemption is the first day of the taxable year in which income was first generated from the business eligible for tax reduction or exemption (when no income was accrued from the relevant business by the taxable year to which the date falling on five years from the start of business belongs, the taxable year to which the date falling on five years from the start of business belongs) (Article 121-2 (2) of the Restriction of Special Taxation Act).

Note that ‘income’ refers to the income from each business year as prescribed by Article 14 of the Corporate Tax Act.
CHAPTER 4

Joint Working Group (JWG) Activity

1. Introduction
2. JWG Activity Report 2014
1. Introduction

Back-ground
Surveys on audits conducted by
- AMCHAM
- ECCK
- KGCCI
- SJC
- Joint working group on audits suggested to NTS Commissioner in 03/2014
- Kick off Joint Working Group in 06/2014

Participants
- Representatives from NTS
- Chamber nominated industry experts
- Chamber representatives
- Tax experts

Facts
- Established 06/2014
- Target: Improve mutually tax audit procedures

2. JWG Activity Report 2014

Reliability & Predictability

Issue : Reconciliation of Tax and Customs Audit Results
Audit procedures for tax and customs audits need to be reconciled. It is from our point of view difficult to understand and that due to transfer price adjustment respectively lowering of import prices the taxable income is adjusted to determine tax liabilities, interests and penalties but on the other hand not offset with import prices and the respective custom duties. Additionally, financial adjustments having impact on taxes and / or custom duties should be able to off-set. Therefore, actual reconciliations should be made practically and actively according to the enacted reconciliation regulations of the corporate income tax law and the customs law. Furthermore the theoretically existing reconciliation and appeal procedures in case of conflicting assessments by tax and customs authorities should become more effective, as they are an important means to create confidence in fair and equal treatment for foreign investors.

Response : Open

Comment by Chambers: The Chambers acknowledge that this area is a difficult one, involving not only the NTS but also the cooperation of the KCS. However, because it is so difficult to resolve but yet so greatly impacts many taxpayers, the Chambers urge the NTS and the KCS to continue to seek a fair and practical resolution to this issue.

Comment by NTS: Since Jan. 2015, advance arrangement program between transfer pricing and customs valuation has been effective. NTS and KCS currently have discussed on how to stimulate the program so far. NTS delivered a detailed explanation on the program and believes that the program will help to eliminate uncertainty in taxation.
**Reliability & Predictability**

**Issue : Disclosure of Comparables**

Korea is to adhere to OECD guidelines and the Korean International Tax Coordination Law. Therefore, at tax audits comparables are to be disclosed to the company being audited. Korea as member of the OECD has agreed to follow internationally agreed rules and procedures regarding transfer pricing. A core element of these rules are the criteria according to which comparables are allowed to be selected and used for TP assessments. Examples for such criteria are the restriction to the use of 3rd party comparables only, no inter-period comparables etc. It has been experienced by member companies that Korean tax auditors were not ready to accept these restrictions.

**Response: Already Implemented**

In order to determine arm’s length price at TP audits, the NTS complies with OECD Transfer Pricing Guidelines. Such efforts include a disclosure of comparables to taxpayers and a collection of taxpayer opinion.

**Reliability & Predictability**

**Issue : Reliance on/Application of Prior TP Audit Results**

Audit teams are in some cases coming to a different judgment than auditors at a previous audit and accordingly request profit adjustments leading to tax liabilities and penalties. It is our opinion that audit teams should acknowledge the decisions made by previous audit teams; definitely there should be neither penalties nor interests imposed as long as the previous auditor’s recommendation is in line with existing rules and regulations. Unless there have been significant changes in the business model of the company or the legislation, agreed or imposed audit results should be binding for the future. This would not only give companies more security in their efforts to be compliant, but also would enable the respective partner-government to accept the audit outcome. We believe that this would also be to the benefit of Korea by avoiding conflicts with foreign authorities and reduce the number of MAPs.

**Response: Addressed**

Previous audit decision may be changed depending on different facts and circumstances (e.g., changes in organizational structure, function & risk) or law amendments. However, the NTS will deliver sufficient instructions for auditors to explain why they have to change the audit decision.
Joint Working Group (JWG) Activity

Reliability & Predictability

Issue: Written Explanation of Audit Assessments

The calculation of a tax payable needs to be transparent, predictable and logically understandable; thus internal harmonized procedures need to be in place. The JWGC wishes that the procedures applied are transparent and appropriately explained to the management of the audited company. It would be wished to have the possibility to have a written explanation of the rationales of re-assessment by Tax audit team.

Response: Already Implemented

Certain programs are already in operation (e.g., Interim Explanation Program, Tax Consultation Day) to explain results of tax audit to auditee. In particular, the NTS revised a form attached to [Notice on Tax Audit Result] to inform taxpayer of tax types, taxable period, relevant statutory provisions and whether the auditee pays penalty taxes for unlawful act.

General Procedure

Issue: Employee Interviews During Audit

Auditors have to conduct interviews with company employees in order to get a clear picture on various areas. If auditors present the interview subjects to audited companies before the interviews to employees to have enough time to prepare well, the interview would be much more helpful and efficient for both parties.

Response: Addressed

The NTS will provide taxpayers with preparatory time within the availability of audit period where an interview is to be conducted. The NTS will deliver sufficient instructions for auditors to have a proper and appropriate attitude during the interview process.
Joint Working Group (JWG) Activity

General Procedure

Issue: Periodic and Non-periodic Audits

The procedures for regular audits are in general quite clear; which is not necessarily the case for special audits (due to a lower number of occurrences). An overview would definitely help to avoid lengthy discussions at any beginning of a special audit, including which additional rights the NTS has in comparison to a general audit. This overview shall include as well hints on under which circumstances a regular audit can turn into a special one and under which circumstances a special audit can turn into a general audit.

Response: Addressed

In 2013, special audit was abolished. Periodic and non-periodic audits are divided based on audit selection reason. Non-periodic audit is conducted where any specific suspicions of tax evasion is found under the Framework Act of National Taxes as follows.

- **Ground for non-periodic audit**: where a taxpayer does not comply with tax compliance obligations under the Korean Tax laws, where transactional facts are not in line with what was reported (e.g., transaction without authentic documentation, fraud transaction), where a specific suspicions of tax evasion is reported, where a clear evidence of tax evasion or error is found from the submitted documentation.

General Procedure

Issue: Publication of Internal Audit Guidelines

Audit assessment results and procedures are often influenced by “internal instructions” within the NTS. Audited companies often only learn about such guidance through informal channels (e.g. consultants’ internal contacts), which makes it difficult to comply with the expectations of the audit. Furthermore such internal instructions seem to be sometimes results-driven. More transparency, e.g. by making important internal guidance public, would not only enable companies to comply with them, but also contribute to trust-building between the NTS and (potential) investors, who monitor the audit environment in Korea very closely.

Response: Already Implemented

The NTS opened ‘Guidance on Tax Audit Procedure’ which defines basic rules and procedure of tax audit to the public since 2006 via NTS website. However, the level of disclosure is similar to the level of foreign tax administrations, and it is difficult to open selection method of tax audit subject as seen in other tax administrations.
Joint Working Group (JWG) Activity

**General Procedure**

**Issue: Requests for Foreign Affiliate Data/Documentation**

Legal entity audited is legally registered in Korea. An audit team shall concentrate on all data and documents related to that company. Data and documents are requested to be provided from foreign affiliates. Multinational companies registered in Korea have neither power nor the right to request data from overseas affiliates. Korean authorities should concentrate on data and documents possessed by the company operating in Korea. This includes the requests from auditors to provide e.g. income statements - company- or business-unit-based - from overseas affiliates. In cases in which the auditors think that documents from other companies than the auditee are necessary for the tax assessment (e.g. in the area of transfer pricing), the official process for bilateral request for documents as defined in most double taxation treaties between the respective countries is to be followed. Under no circumstances unreasonable pressure shall be exerted on the auditee to circumvent this official process.

*Response: Addressed*

While it is inevitable to request for foreign affiliate-related data for the purpose of calculating arm’s length price at TP audit, the NTS will deliver sufficient instructions to auditors (also monitor whether the instructions are well operated) in order to minimize documentation burden of companies.

**Efficiency**

**Issue: Timelines for Appeals**

Clear timeline by authorities, e.g. that a decision on an appeal is made within a reasonable period of time such as max 90 days as prescribed in the laws and informed back to the company.

*Response: Addressed*

NTS made most of decisions on appeals within 90 days, but some of cases require substantial amount of time to proceed because it takes some time to receive opinions from authoritative organizations or taxpayers.
Joint Working Group (JWG) Activity

Efficiency

Issue: Length of Audits

The length of on-site audits differs remarkably ranging from two to six months. We expect that time standards are set for companies considering the complexity and the size of the legal entity. Actually, it must be also in the interest of the authorities to conduct audits in an efficient way and if completed according to the original audit scope to close them accordingly and not to extend the audit scope only because there is still time left.

Response: Already Implemented

Each audit period is unequal according to various reasons (e.g., size and business types of an entity). As for extension of audit scope, the audit team is unable to arbitrarily extend the scope as the extension requires permission by taxpayer advocacy committee. Also, while the NTS will put its efforts to follow the arranged timeline, the NTS explained it is difficult to disclose criteria for allocating audit period.

Efficiency

Issue: Quantity of Data Requested

The quantity of reports, documents and data requested by authorities in many cases reaches an excessive number. The same is true for “necessary” documentation to prove that e.g. management fees from either a local holding- / lead-company or global/regional headquarters are justified. It is our opinion that the Korean government strives for deregulation and accordingly we would more than appreciate if documentation requests and needs could be reviewed to make lower in number and less complex and could be defined and published.

Response: Addressed

While it is inevitable to request for foreign affiliate-related data for the purpose of calculating arm’s length price at TP audit, the NTS will deliver sufficient instructions to auditors (also monitor whether the instructions are well operated) in order to minimize documentation burden of companies.
Joint Working Group (JWG) Activity

Efficiency

Issue: Length of Audits

Considerable long periods after on-site audit to deliver the final audit conclusion to the company. It is for sure mainly based on the fact that members of the audit team are in some cases assigned shortly after the on-site audit to a different audit team which makes a finalization more difficult. The JWGC wishes that the audit team involved in that audit, shall firstly complete the audit report before being taking over new assignments. In this respect, we also expect a clear timeline by the authorities, e.g. that a final report is to be issued latest three months after the on-site audit.

Response: Already Implemented

The NTS is providing the final audit results within 20 working days after having finished the on-site audit. In case of facing complex tax situation, which requires internal reconciliation, it may require more than 20 days until the final audit conclusion is delivered. In such case the NTS provides a reasonable and clear justification to the taxpayer, as well as a formal status update at least every 30 days.

Efficiency

Issue: Simultaneous Audits by Different Authorities

Companies have been audited at the same time by either different authorities or by the same authority with different teams and a different scope. This leads automatically to the effect that efficiency decreases and that the provision of data and documents is delayed etc. We request that authorities do not schedule multiple regular audits at the same time.

Response: Already Implemented

A company can apply for a postponement of NTS audit if documents are currently not available due to double audits (or investigations) by different government authorities. The NTS itself schedules only one audit per company at a time. The JWGC pointed out that in some cases it might be different legal entities at which an audit is conducted at the same time but supported by the same centralized shared accounting service team located at the lead company. It was suggested to have coordination meetings on senior level with other regulatory bodies (e.g. customs service) to align the timing of different audits. The NTS considers this as difficult, due to the different legal basis for the respective audits, but will rather consider a postponement of a tax audit if it interferes with other audits.
Efficiency

Issue: Request for Translation of Documents

During the course of an audit, a substantial number of documents are requested. Multinational companies in many cases have defined their company language to be English. It has been observed that auditors request translation into Korea which we find not adequate - neither financially nor from an efficiency point of view. The JWGC recommends that documents in English are accepted and that only a limited number of documents on outstanding important issues / areas are to be provided in Korean. Documents or data requested to be provided need to have audit relevance; although it could be observed also non-audit-relevant documents have been requested.

Response: Addressed

According to the Enforcement Decree of the Adjustment of International Taxes Act, documentation shall be prepared and submitted in Korean and the submission of documentation prepared in English is allowed in limited cases.

The NTS will deliver a message to audit team to request English-Korean translation within the limited scope necessary to conduct the audits.

Guide to Taxation in Korea

- For CEOs of Foreign-Invested Companies -

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