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## **South Korea – Proposed Legislation Affects High-Income Foreign Workers, Stockholders**

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# *flash Alert*

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South Korea's government announced the 2015 tax revision bills in early August 2015.<sup>1</sup> Two of the introduced bills could have a considerable impact on globally mobile employees and their multinational employers due to a planned new withholding tax for high-income foreign workers and an expanded definition of majority stockholders. These bills are expected to be passed into law in late 2015.

### **Why This Matters**

The introduction of the withholding tax will require that Korean companies put new processes in place to effect the withholding and remit the tax collected for the employment income paid or borne by the foreign entity. It will also mean potentially higher employment costs tied to those high-income earning foreign employees. This could impact international assignment budgeting, costs, and tax compliance.

The measure that expands the definition of majority stockholders could subject more investors and stockholders to capital gains taxation. This would increase the tax burden on such individuals.

### **Measures Concerning High-Income Foreign Workers and Majority Stockholders**

#### ***New Withholding Tax Requirement on South Korean Companies in Cases Where High-Income Foreign Workers Provide Labor (Newly Legislated as Article 156-7 of Income Tax Act)***

The 2015 tax revision bills require Korean companies to withhold tax on the income which is paid or borne by a foreign entity of foreign workers dispatched from the foreign company who provide labor for domestic companies in South Korea and earn high income as a result. The legislation has been formulated due to the government's desire to secure more tax revenues from foreign workers.

The withholding tax will be imposed at a rate of 18.7 percent. The foreign company that dispatches the high-income workers to the South Korean company may be able to seek a refund of overpaid tax after the Korean company's year-end tax settlement for the foreign worker. More details in terms of the definition of high-income foreign workers, withholding tax procedures, etc., are to be provided in the Enforcement Decree of the Income Tax Act. The law will be enforced from January 1, 2016.

### **KPMG Note**

Companies that send workers to South Korea are advised to consult with their tax service providers for upcoming updates on the new withholding tax requirement on high income foreign workers.

***Expanded Definition of Majority Stockholders (Amended Article 157-4 of Income Tax Enforcement Degree)***

The proposed revision bills expand the definition of majority stockholders prescribed by Presidential Decree and imposes tax on the capital gain of listed stocks as summarized below:

- Korea Exchange: one stockholder or investor owning not less than 1 percent (currently 2 percent) of stocks or an investment stake in a corporation listed on the Korea Exchange, or owning not less than KRW 2.5 billion (currently KRW 5 billion) of the total amount (market price) of the stocks of that corporation.
- Korea Securities Dealers Automated Quotation (KOSDAQ): one stockholder or investor owning not less than 2 percent (currently 4 percent) of stocks or an investment stake in a corporation listed on the KOSDAQ, or owning not less than KRW 2 billion (currently KRW 4 billion) of the total amount (market price) of the stocks of that corporation.

**KPMG Note**

The measure has been introduced to enhance the effectiveness of taxing capital gains. If passed into law, the newly defined majority stockholders of listed corporations will be subject to a capital gain tax rate of 20 percent (30 percent if stocks are held less than one year) for sales of publicly traded stocks on or after January 1, 2016. Stockholders other than majority stockholders are not subject to a capital gain tax for sales of publicly traded stocks.

Stockholders or investors who hold publicly traded stocks and then become majority stockholders are advised to consult with their tax service providers so they might mitigate any additional tax burden resulting from the bill's measure.

***Footnote:***

1 For the announcement and links to the legislation, see the following:

In English, click [here](#).

In Korean, click [here](#).

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