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South Korea – New Assignee-Related Withholding Rule for Korean Entities

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flash Alert

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Starting 1 July 2016, there will be a new withholding obligation to be imposed for certain South Korean entities with foreign workers who have been dispatched from foreign entities.

Why This Matters

The rules are changing and the procedures for reporting and withholding by affected Korean entities will need to be modified. Payroll administrators should take the necessary steps to put appropriate policies and procedures in place that comply with the new rules.

Current Rules and New Rules

Under current rules, Korean entities do not have an income tax withholding requirement for foreign workers' employment income when they are working for a Korean entity if the employment costs are not recharged to or borne directly by that entity. Korean entities are required to file monthly withholding tax returns if the employment income is recharged to or the payment is borne by the local Korean company.

The new law imposes a withholding tax obligation on South Korean companies for receiving seconded foreign assignees in South Korea.¹ This new law, **effective from 1 July 2016**, requires that Korean companies meeting several conditions report and withhold monthly income tax in relation to foreign assignees' employment income at a flat rate of 17 percent (18.7 percent including the local income tax) where a Korean entity pays a service fee to the foreign entity dispatching its employees in connection with the labor of said foreign assignees. (For related coverage, see GMS [Flash Alert 2015-111](#), 17 September 2015.)

Conditions to Be Met

- The annual service fee payable to the foreign entities exceeds KRW 3 billion.
- Prior year's gross sales of the Korean entity total KRW 150 billion or more; or prior year's total assets total KRW 500 billion or more.
- The business of the Korean entity falls under one of the following categories:
 - ✓ aviation transportation;
 - ✓ construction;
 - ✓ professional, scientific, or engineering services.

The foreign entities dispatching their employees to South Korea are required to perform and file year-end income tax reconciliations by March 10th of the following year in relation to their employees' monthly tax filings.

KPMG Note

Companies that may be affected by these changes should determine if they are ready to make the relevant withholdings from 1 July 2016.

We are awaiting clarification from the government on how the different types of employment income will be treated under the new law.

Footnote:

1 Newly legislated as Article 156-7 of Income Tax Act and Article 207.10 of Enforcement Decree of Individual Income Tax Act.

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