KPMG Tax Newsletter

Highlights from 2023 Korean Tax Reform Proposal

Highlights for 2023 Korean Tax Reform Proposal – Foreign Invested Companies

On July 27, 2023, the Ministry of Economy and Finance ("MOEF") announced the tax reform proposal for 2023 ("Tax Reform Proposal"). The 2023 Tax Reform Proposal focuses on boosting the economy, supporting recovery of public welfare, and preparing for future advancement.

In this newsletter, we summarize the major contents of the Tax Reform Proposal which may have a potential impact on foreign invested companies.

Expansion of Scope of Strategic Technology and New Growth Engine Source Technology

The current Tax Incentive Limitation Law ("TILL") provides tax benefits for R&D expenses for National Strategic Technology ("NST") and New Growth Engine Source Technologies ("NGEST") and for facility investment to commercialize such technologies. The Tax Reform Proposal expands the tax benefits of such technologies by including bio-pharmaceutical industry in the qualified list of the NST and including the essential technology for energy efficiency improvement and the core technology for smelting and refining used in the supply chain of related mineral in the qualified lists of the NGEST.

- [Effective Date] The amendment to NST will apply to R&D expenses incurred and facility investments made on or after July 1, 2023.
- [Effective Date] The amendment to NGEST will apply to expenditures incurred on or after January 1, 2024 in relation to R&D for energy efficiency improvement and supply chain related technology.

Extension of Tax Exemption Period for Foreign Engineers and Expansion of Scope

To promote the introduction of advanced technologies and related foreign engineers to Korea, the current TILL (Article 18) provides foreign engineers with a 50% reduction in income tax on their employment income generated for the first 10 years from the initial employment date (if they start their initial employment no later than December 31, 2023) to the month on which the 10th anniversary falls. The Tax Reform Proposal extends the income tax reduction period for foreign engineers whose employment starts no later than December 31, 2028 and also includes professors of educational institutions located in a special R&D zone or a high-technology medical complex as eligible foreign engineers.

- [Effective Date] The amendment will take effect for fiscal years commencing on or after January 1, 2024.

Extension for Application Period of Flat Income Tax Rate to Foreign Employees

Under the TILL (Article 18-2), foreign employees are eligible for applying a flat tax rate of 19% on income earned in Korea during the first 20 years of employment if they start their employment no later than December 31, 2023. Under the Tax Reform Proposal, application of this flat tax rate would be extended to foreign employees who start employment no later than December 31, 2028, and housing benefits provided to eligible foreign employees who apply the flat tax rate would be excluded from taxable income of the foreign employees.

- [Effective Date] The amendment will take effect for fiscal years commencing on or after January 1, 2024.

Extension of Tax Reduction Application Period for Special Regions

The current TILL grants companies established in special regions by December 31, 2023 a tax reduction in individual and corporate income taxes for a specified period. Under the Tax Reform Proposal, the tax reduction application period for special regions is extended to December 31, 2025.

Special regions	Tax exemption ratio
Industrial Crisis Zone (TILL§99-9)	100% for the first 5 years + 50% for the subsequent 2 years
Agricultural and Industrial Complexes (TILL§64)	50% for 5 years
Local SME Special Support Area	
Special R&D Zones (TILL §12-2)	100% for the first 3 years + 50% for the subsequent 2 years (For project operator, 50% for the first 3 years + 25% for the subsequent 2 years would apply)
Jeju Science Park (TILL §121-8)	
Jeju Investment Promotion Zone (TILL §121-9)	
Enterprise City Zones (TILL §121-17)	
Regional Development Zone (TILL §121-17)	

Yeosu EXPO Ocean Park Special Zone (TILL§121-17)	
Saemangeum Industrial Complex (TILL §121-17)	
Asian Cultural Hub City (TILL §121-20)	
Financial Centers (TILL §121-21)	
High-tech Medical Complexes (TILL §121-22)	
National Food Cluster (TILL §121-22)	

Accelerated Deadline for International Transaction Documentations

The International Tax Coordination Law ("ITCL") (Article 16) requires applicable taxpayers to submit a master file and a local file. Under the Tax Reform Proposal, the deadline for submission is accelerated to 6 months from the end of the fiscal year.

Documentation	Requirements for submission	Deadline
Local file	If sales revenue exceeds KRW 100 billion and the amount of international transaction with foreign related parties exceeds KRW 50 billion	Within 12 months from end of the fiscal year → Within 6 months from end of the fiscal year under the Tax Reform Proposal
Master file		
Country-by-country report	If consolidated sales revenue exceeds KRW 1,000 billion	Remains the same (i.e., within 12 months from end of the fiscal year)

Furthermore, under the Tax Reform Proposal, taxpayers that may have been exempted from the requirement to submit the statement of international transactions, the summary income statement of a foreign related party or the report on arm's length pricing method because certain transaction thresholds were exceeded will no longer be exempted. Therefore, the taxpayer will be required to file the above-mentioned forms within 6 months from the end of the fiscal year.

- [Effective Date] The amendment will take effect for fiscal years commencing on or after January 1, 2024

Expansion of Exemption for Foreign Bank and Financial Accounts (FBAR) Reporting Obligation

The current ITCL (Article 54) provides an exemption for FBAR reporting obligation for foreign residents who reside in Korea for short-term period, state and local governments, public institutions, and financial institutions, etc. Under the Tax Reform Proposal, the exemption for FBAR reporting obligation is extended to employees of international agencies and institutions established under treaties.

- [Effective Date] The amendment will take effect for reportings filed on or after January 1, 2024

Limit for Penalties for Late Issuance of Invoices

The current National Tax Basic Law ("NTBL") (Article 49) sets the limit for penalties for late issuance of invoices under the Individual Income Tax Law and the VAT Law up to KRW 50 million (KRW 100 million for an enterprise other than small and medium sized enterprises ("SMEs")), unless the obligation to issue the invoice is intentionally violated. The Tax Reform Proposal extends such limit for penalties to the case of late issuance of invoices under the Corporate Income Tax Law (Article 75-8).

- [Effective Date] The amendment will take effect for penalties imposed on or after January 1, 2024

New Tax Provision for Establishment of Regular Implementation Committee for Tax Treaty

The Tax Reform Proposal introduces a provision in the ITCL (Article 42-6) for the establishment and operation of a "Regular Implementation Committee for Tax Treaty". This Committee will be responsible for managing the execution of tax treaties and strengthening international tax cooperation. The Minister of the Ministry of Economy and Finance can jointly establish the Committee with a tax treaty country to facilitate discussions of the application and interpretation of tax treaties, to exchange information on tax law changes in both countries and to address other matters related to tax treaty compliance and international tax cooperation.

Penalties for Non-Registered Electronic Service Providers Subject to Simplified VAT Registration

Under the current VAT law (Article 53-2), when a foreign business entity without a domestic place of business supplies electronic services in Korea through overseas open markets, as the electronic services are deemed to be supplied in Korea for VAT purposes, the operator of the overseas open market is required to register in Korea for VAT purpose under a simplified business registration regime (within 20 days from the business commencement date) and to report and pay the relevant VAT. The Tax Reform Proposal imposes a penalty in case an electronic service provider subject to the simplified business registration does not register in Korea to enhance the effectiveness of the regime.

- [Effective Date] The amendment will take effect for electronic services supplied on or after January 1, 2024

Introduction of Reporting Requirements for Foreign Stock Based Compensation

The Tax Reform Proposal introduces new reporting requirements under the Individual Income Tax Law ("IITL") (Article 164-5) for a domestic corporation or a Korean permanent establishment of a foreign corporation to submit a detailed statement of stock-based compensations granted to employees by a foreign controlling shareholder. When employees exercise the stock-based compensation or receive a corresponding payment, the domestic corporation or the Korean permanent establishment of a foreign corporation is required to submit the transaction details of the stock-based compensation by March 10th of the year following the year in which the stock-based compensation was exercised or a corresponding payment was received.

- [Effective Date] The new requirement will take effect for stock-based compensation received or exercised on or after January 1, 2024.

Postponed Effective Date for UTPR under the Global Minimum Tax Regime

The Global Minimum Tax was introduced under the leadership of the OECD through an agreement of more than 140 countries. It is designed to ensure large multinational enterprises (with consolidated revenues of approximately KRW 1 trillion or more) are subject to a minimum effective tax rate of 15% on any excess profits arising in each jurisdiction where they operate.

Under the Tax Reform Proposal, the ITCL was amended to include the specific provisions from the GloBE Model Rules, the Commentary and the Administrative Guidelines recently released by the OECD. According to the amended regulation of the ITCL (Supplementary Rule 1), the income Inclusion Rule (IIR) which has a significant impact on domestic corporations will take effect for the fiscal year commencing on or after January 1, 2024. However, the effective date of Undertaxed Payments Rule (UTPR) has been postponed one year to take effect for fiscal years commencing on or after January 1, 2025, considering the implementation timing of other major countries.

- In case of UTPR, the amendment will take effect for fiscal years commencing on or after January 1, 2025.

Key Contacts

If you have any inquiries, please feel free to contact the key contacts of KPMG Korea listed below:

Tax Team Specialized in International Tax/Foreign Invested Company		
Oh, Sang Bum	sangbumoh@kr.kpmg.com	02-2112-0721
Lee, Sung Wook	sungwooklee@kr.kpmg.com	02-2112-0946
Kim, Dong Hoon	dkim@kr.kpmg.com	02-2112-0938
Lee, Sang Moo	sangmoolee@kr.kpmg.com	02-2112-7899
Suh, Yu Jin	yujinsuh@kr.kpmg.com	02-2112-0930
Kim, Jung Eun	jungeunkim@kr.kpmg.com	02-2112-0283
Cho, Sang Hyun	sanghyuncho@kr.kpmg.com	02-2112-7687
Song, Hyung Woo	hyungwoosong@kr.kpmg.com	02-2112-0275
Min, Woo Kee	wmin@kr.kpmg.com	02-2112-6886
Park, Sang Hoon	spark17@kr.kpmg.com	02-2112-6672
Lee, Jin Wook	jinwooklee@kr.kpmg.com	02-2112-3476
Lee, Chang Hoon	changhoonlee@kr.kpmg.com	02-2112-6815
Kang, Sung Won	kang22@kr.kpmg.com	02-2112-6771
Baik, Chun Wook	cbaik2@kr.kpmg.com	02-2112-3339

Privacy | Legal | Unsubscibe

home.kpmg/kr

The information contained herein is of a general nature and is not intended to address the circumstances of any particular individual or entity. Although we endeavor to provide accurate and timely information, there can be no guarantee that such information is accurate as of the date it is received or that it will continue to be accurate in the future. No one should act on such information without appropriate professional advice after a thorough examination of the particular situation.

© 2023 KPMG Samjong Accounting Corp., a Korea Limited Liability Company and a member firm of the KPMG global organization of independent member firms affiliated with KPMG International Limited, a private English company limited by guarantee. All rights reserved.