



GMS Flash Alert



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South Korea - Provisions for Foreign Workers in Tax Revision Bill

The 2018 Tax Law Amendment Bill announced on July 30, 2018¹, is currently under review by the National Assembly and should be confirmed towards the end of year after it goes through the extensive legislative process of the National Assembly. We summarize below the key features of the new tax revision proposals.

WHY THIS MATTERS

Notwithstanding the increased penalties for Korean FBARs and Form 97, which we also highlight in this newsletter, tax costs and budgets for inbound and outbound South Korean expatriates will likely be affected by the extension of the flat tax rate and income tax reduction for foreign engineers. In order to avoid any unexpected tax implications, the changes described below should be taken into account when evaluating international assignment costs and budgets for expatriates both in and out of South Korea.

Flat Tax Rate: Extension of Sunset Clause

The sunset clause regarding application of the flat tax rate as of December 31, 2018, is being extended to December 31, 2021. Under the revision bill, a foreign worker who starts to work in South Korea before December 31, 2021, can elect to have the 19-percent flat tax rate (20.9 percent including local income tax) applied for five consecutive tax years, including the first year he/she starts to work in South Korea. For example, if a foreign worker starts to work on any day in 2021, he/she can elect to have the flat tax rate apply up to December 31, 2025. Other statutory components of the flat tax remain intact. Please refer to GMS [Flash Alert 2018-044](#) (March 1, 2018) for more details on the flat tax.

KPMG NOTE

Foreign workers who had been “continuously” working as at January 1, 2014, will be able to apply the flat tax until December 31, 2018, but no longer. The tax costs for those who are not eligible for flat tax will be affected by the changes in the top marginal income tax rate (again, for additional information, see GMS [Flash Alert 2018-044](#) (March 1, 2018)).

Extension of Tax Reduction Period for Foreign Engineers

A foreign engineer prescribed by Presidential Decree is granted a tax reduction equivalent to 50 percent of the income tax on his earned income for two years (24 months) from the date he commenced employment in South Korea if he starts to work in the country before December 31, 2018, for the first time. However, under the revision bill, in an attempt to further induce foreign workers specialized in engineering fields, the 50-percent income tax reduction will be granted for five years (60 months) if he starts to work in the country before December 31, 2021, for the first time. For example, if a foreign engineer starts to work in December 2021, he may be granted the income tax reduction up to November 30, 2026.

KPMG NOTE

A foreign engineer prescribed by Presidential Decree means a non-South Korean national who meets one of the following criteria:

- A person who provides technology in Korea under an engineering technology license agreement prescribed by Ordinance of the Ministry of Strategy and Finance. The license agreement means an agreement of which the contract price is equal to or more than USD 300,000.
 - A researcher working in the research and development (R&D) facility of a foreign-capital-invested company that meets the requirements prescribed by Ordinance of the Ministry of Strategy and Finance and listed as follows:
 - ◆ The R&D facility should employ five R&D employees or more who hold a Bachelor of Science degree with research experience of three years or more or hold a Master of Science degree;
 - ◆ The R&D facility should be an independent research facility;
 - ◆ The R&D investment amount should be KRW 100 million or more;
 - ◆ At least 30 percent of voting stocks or investment of the foreign-capital invested company should be owned by non-Koreans.
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Increased Failure-to-File Penalty for Report of Foreign Bank and Financial Accounts (FBAR)

Tax residents in South Korea having financial accounts opened at foreign financial institutions are required file a Report of Foreign Bank and Financial Accounts by June 30 if the aggregate balance of the foreign financial accounts in the form of securities, derivatives, or other financial instruments exceeds KRW 500 million on any last day of month of the year (again, for additional information, see GMS [Flash Alert 2018-044](#) (March 1, 2018)). Currently, the failure-to-file penalty is waived when one is charged with criminal punishment. Effective from 2019, however, when the bail that is paid for an individual who is criminally prosecuted is less than the failure-to-file penalty, the difference between the bail and the failure-to-file penalty is additionally imposed on the prosecuted person.

Korean nationals abroad who stay for 183 days or less in South Korea for two years from the last date of the tax year concerned are currently exempted from FBAR. Effective from 2019, the filing requirement will be loosened for Korean nationals abroad who stay for 183 days or less in South Korea for a year from the last date of the tax year concerned, they will be exempted from FBAR.

KPMG NOTE

- A foreign resident who has/had his/her domicile or place of residence in the Republic of Korea for not more than five years in total from 10 years before the end of the relevant year subject to reporting is exempt from South Korean FBAR reporting.
- The failure-to-file penalty for FBARs is as follows:

Non-reported or underreported foreign financial balance	Penalty
Up to KRW 2 billion	10% of balance
KRW 2 billion to KRW 5 billion	KRW 200 million + 15% of balance over KRW 2 billion
Over KRW 5 billion	KRW 650 million + 20% of balance over KRW 5 billion

The bail for the criminally prosecuted is up to 20% of non-reported foreign financial balance.

Toughened Requirements for Statement of Acquisition and Management of Overseas Real Estate (Form 97)

Tax residents who have acquired any overseas (non-Korean) real estate or had operating (including rental) income from such real estate are required to submit the Statement of Acquisition and Management of Overseas Real Estate (Form 97) to the local district tax office by the filing due date for individual income tax returns, May 31 each year.

However, under the revision bill, effective from 2019, tax residents who have sold overseas (non-Korean) real estate also will be required to submit the statement when the selling price is KRW 200 million or more. Tax residents who have acquired overseas real estate or had operating income from such real estate will have a statement requirement only when the purchasing price is KRW 200 million or more.

Under the revision bill, the failure-to-file penalty for the statement in cases of acquisition, operating activities, and sale of real estate will be 10 percent of the acquisition price, operating (including rental) income, and selling price, respectively, with a limit of KRW 100 million, effective from 2020.

FOOTNOTE:

1 For the announcement (in Korean) on the bill, see:

http://www.moef.go.kr/nw/nes/detailNesDtView.do?menuNo=4010100&searchNttId1=MOSF_000000000018263&searchBbsId1=MOSFBBS_000000000028 .

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KRW 1 = USD 0.0009
KRW 1 = GBP 0.0007
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KRW 1 = JPY 0.0998

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