

GMS Flash Alert

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South Korea – Provisions for Foreign Workers in Tax Bill

South Korea's 2021 Tax Law Amendment Bill ("the Bill"), announced on 26 July 2021, is currently under review by the National Assembly. It is expected to be confirmed towards the end of year after it goes through an extensive legislative process. In this *GMS Flash Alert*, we summarize the key features of the Bill's tax revision proposals.

WHY THIS MATTERS

Tax costs and budgets for inbound 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 assignees sent into and out of South Korea.

Flat Tax Rate: Extension of Sunset Clause

The sunset clause regarding application of the flat tax rate as of 31 December 2021, is being extended to 31 December 2023. Under the Bill, a foreign worker who first provides labor in South Korea on or before 31 December 2023, 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 2023, he/she can elect to have the flat tax rate apply up to 31 December 2027. Other statutory components of the flat tax remain intact. (Please refer to [GMS Flash Alert 2018-044](#) (1 March 2018) for more details on the flat tax.)

Extension of Sunset Clause for Foreign Engineers' Tax Reduction

The sunset clause regarding application of the foreign engineer's tax reduction as of 31 December 2021, is being extended to 31 December 2023. 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 five years (60 months) from the date he

commenced employment in South Korea if he starts to work in the country before 31 December 2023, for the first time. For example, if a foreign engineer starts to work in December 2023, he may be granted the income tax reduction up to 30 November 2028.

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 person meeting all of the following criteria:
 - ◆ A person who has a bachelor's degree or higher in the natural sciences, science, and engineering fields, or medical fields.
 - ◆ A person who has experience in R&D and technology development for at least five years (two years including experience prior to obtaining a Ph.D. in the case of a person with a Ph.D.) at a foreign university or research institute prescribed by Ordinance of the Ministry of Strategy and Finance.
 - ◆ As of the end of the relevant tax year, there is no kinship or business control relationship between a person and the company for which a person provides labor.
 - ◆ A researcher in one of the following institutions or departments prescribed by Presidential Decree:
 - A corporate-affiliated research institute or R&D department recognized by the Minister of Science and Information and Communications Technology (ICT) pursuant to Article 14-2 (1) of the *Basic Research Promotion and Technology Development Support Act*;
 - A government-funded research institute under Article 2 of the *Act on the Establishment, Operation and Fostering of Government-Funded Research Institutions, etc.* or a government-funded science and ICT research institute or its affiliated research institute under Article 2 of the *Act on the Establishment, Operation and Fostering of Government-Funded Science and ICT Research Institutions*;
 - A specific research institute or its affiliated research institute under Article 2 of the *Specific Research Institutions Promotion Act*;
 - A university, industrial college, junior college, or technical college, or its affiliated research institute under Article 2 of the *Higher Education Act*;
 - Korea Institute of Ocean Science and Technology established under the *Korea Institute of Ocean Science and Technology Act*;
 - Defense Science Research Institute established in accordance with the *Defense Science Research Institute Act*;
 - A specialized production technology research institute under Article 42 of the *Industrial Technology Innovation Promotion Act*;

KPMG NOTE continued:

- An industrial technology research association under the *Industrial Technology Research Association Promotion Act*.

Updated Withholding Requirements for Korean Companies Engaging Employees Dispatched from a Foreign Entity

A South Korean company is required to file a payroll withholding tax return at a flat rate of 19 percent (20.9 percent including local income tax) on the service fee payable to a foreign entity dispatching its employees under certain conditions (we have previously covered this in [GMS Flash Alert 2018-044](#), 1 March 2018). According to the Bill, the criteria of the service fee payable are being amended as follows for the South Korean tax authority to determine in advance whether domestic corporations are obligated to withhold taxes, and it shall take effect in business years beginning on or after 1 January 2022:

- The annual service fee payable to the foreign entity must fall into one of the following:
 - A. Total value of service fees on a contract agreement with the foreign entity exceeds KRW 2 billion; or
 - B. Actual service fees paid in the immediately-preceding tax year exceeds KRW 2 billion.

Toughened Requirements for Statement of Acquisition and Management of Overseas Real Estate (Form 51)

Tax residents who have acquired any overseas (non-Korean) real estate, had operating (including rental) income therefrom, or sold any overseas real estate, are required to submit the *Statement of Acquisition and Management of Overseas Real Estate* (Form 51, formerly known as Form 97) to the local district tax office where the acquisition/disposal price is KRW 200 million or more.

Under the Bill, tax residents who have *held* overseas (non-Korean) real estate also will be required to submit the Form 51 when the acquisition price is KRW 200 million or more effective from 2021 filings (due by 30 June 2022).

Capped Taxpayer Association Tax Credit

Individuals may elect to pay taxes on the employment income paid by a non-Korean entity through filing an annual income tax return or joining a licensed taxpayer's association and paying taxes on a monthly basis through the association. All association members can obtain a 5-percent credit of income tax payable. Under the Bill, however, there shall be an upper credit limit of KRW 1 million per taxpayer taking effect for employment income earned from 1 January 2022.

KPMG NOTE

The credit limit of KRW 1 million shall be prorated on a monthly basis according to the period of employment in South Korea.

KRW 1 = USD 0.000858 | KRW 1 = EUR 0.000729 | KRW 1 = GBP 0.000624 | KRW 1 = AUD 0.00118 |
KRW 1 = JYP 0.0944 (Source: XE.com)

FOOTNOTE:

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

https://www.moef.go.kr/nw/nes/detailNesDtaView.do?searchBbsId1=MOSFBBS_000000000028&searchNttId1=MOSF_000000000055951&menuNo=4010100.

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