Thinking beyond borders: Management of extended business travelers – South Korea

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Key message

A person's liability for South Korean (Korean) tax is determined by residence status for taxation purposes and the source of income derived by the individual.

1 Key message

Tax compliance procedures for employers and expatriate employees depend on the nature of the employment income. A resident is an individual who is domiciled or resident in Korea for 183 days or more.

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Income tax

2 Income Tax

2.1 Liability for income tax

A person's liability for Korean tax is determined by residence status.

The general rule is that a person who is a resident of Korea is assessable on their worldwide income. Non-residents are only assessable on income sourced in Korea. A resident is an individual who is domiciled or resident in Korea for 183 days or more. A non-resident is an individual other than a resident.

Foreign workers may qualify for exemption under the relevant double tax treaty where the duration of their stay is 6 months or less, and their salary is not paid by, or borne by, a Korean entity.

2.2 Definition of Source

Employment income is generally treated as Korean-sourced where the individual performs the services while physically located in Korea.

A tax obligation does not occur until the expatriate commences work in Korea.

2.3 Tax Trigger Points

Technically, there is no minimum number of days that exempts the employee from the requirements to file and pay tax in Korea. The tax obligation for Korean-sourced income, however, does not occur until the expatriate commences work in Korea.

2.4 Types of Taxable Income

There are two kinds of employment income: the first (informally called Class A), is the employment income earned from local entities and individuals that are recognized as expenses in the local entities' and individuals' financials (hereinafter called local employment income) for tax purposes. The other (informally called Class B), is the employment income earned from foreign entities and individuals that are recorded as expenses in the foreign entities' and individuals' financials (hereinafter called foreign employment income) for tax purposes.

Expatriates can elect to apply a 19 percent flat tax rate (excluding local income surtax). Foreign workers (except for foreign workers who have a "special relationship" with the employing entity) initially starting work in Korea before 31 December 2023 can elect to have 19 percent the flat tax rate (20.9 percent including local income tax) for 5 consecutive tax years from the initial commencement of employment/assignment in Korea (including the first year they start to work in the country/jurisdiction) on the employment income earned while working in Korea.

Other types of income that may be taxed include retirement income and capital gains.

2.5 Tax Rates

Net taxable income of resident individuals is taxed at graduated rates ranging from 6 percent to 45 percent (excluding local income surtax). The maximum tax rate is currently 45 percent on income earned over 1, billion Korean won (KRW) effective from 1 January 2021. Individuals resident in Korea are also levied a per capita resident tax by their local government in the amount of KRW10,000 or less.

Tax rates for non-residents are the same as those for residents. However, foreign workers can elect to apply a 19 percent (excluding local income surtax) flat tax rate to total Korean-sourced employment income. Individuals liable for payment of income tax in Korea are levied an additional local income surtax at the rate of 10 percent of the income tax amount.

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Social security

3 Social security

3.1 Liability for social security

The national pension is a mechanism requiring individuals to save money for retirement. The current contribution rate is 9 percent of an employee's gross salary (4.5 percent contributed by the employer and 4.5 percent contributed by the employee), capped at KRW 286,650 per month, each, unless there is a totalization agreement with the individual's home country/jurisdiction.

Expatriates with D-7, D-8, or D-9 visa types are required to participate in employment insurance unless they are exempt under a reciprocal principle. Expatriates are subject to industrial accident insurance unless exempt under applicable totalization agreements. The required contribution for industrial accident insurance is borne entirely by the employer. The applicable rate ranges from 0.56 percent to 18.56 percent.

Expatriates are also required to participate in national health insurance if they are on local payroll, including charge back of the associated compensation costs to Korea, or if they reside in Korea for more than 6 months. An exemption may be available if an expatriate is covered by employer- sponsored foreign medical insurance.

Those who stay in Korea for 90 days or more under a valid work visa must register as an alien registration card. Once registered, social security taxes will apply depending on the type of income earned.

If the income is local employment income, the employer and employee are generally required to contribute to the national pension, national health insurance, employment insurance, and industrial accident insurance.

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Compliance obligations

4 Compliance obligations

4.1 Employee compliance obligations

Tax returns are due by 31 May following the tax year-end, which is 31 December. Taxpayers who have only local employment income may not be required to file an annual tax return if there is no additional income to report. Foreign employment income earners must file a tax return of their composite income on or before 31 May of the year following the tax year or join a taxpayer's association and pay the required taxes on a monthly basis through the association.

Taxpayers who leave Korea permanently must file a final tax return prior to their departure for the period from 1 January through to their date of departure.

4.2 Employer reporting and withholding requirements

For local employment income earners, employers are required to withhold payroll taxes monthly, finalize the employee's tax liability, and issue a payroll tax settlement certificate at the end of the tax period. Employers are not required to withhold taxes at the time of payment of foreign employment income if relevant costs are not cross-charged to Korea.

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Other issues

5 Other issues

5.1 Work permit/visa requirements

A visa must be applied for before the individual enters Korea. The type of visa required will depend on the purpose of the individual's entry into Korea.

5.2 Double taxation treaties

In addition to Korea's domestic arrangements that provide relief from international double taxation, Korea has entered into double taxation treaties with up to 94 countries/jurisdictions to prevent double taxation and allow cooperation between Korea and overseas tax authorities in enforcing their respective tax laws.

5.3 Permanent establishment implications

There is the potential that a permanent establishment could be created as a result of extended business travel, but this would be dependent on the type of services performed and the level of authority the employee has.

5.4 Indirect taxes

Value-added tax (VAT) of 10 percent is imposed on the supply of goods and services and the importation of goods.

5.5 Transfer pricing

Under the International Tax Coordination Law, the tax authorities have authority to adjust a transfer price based on an arm's length price and determine or recalculate a resident's taxable income when the transfer price used by a Korean company and its foreign related party is either below or above the arm's length price. The arm's length price should be determined by the most reasonable method applicable to the situation, which will depend on the nature and complexity of services performed.

5.6 Local data privacy requirements

Korea has data privacy laws.

5.7 Exchange control

All transactions involving foreign exchange in Korea or flows of capital between Korean residents and non-residents are controlled according to the provisions of the Foreign Currency Transactions Law.

5.8 Report of foreign bank and financial accounts

If a resident has held foreign financial accounts with the aggregate balance exceeding KRW500 million, on any last day of a month during the tax year, they must report the financial accounts information to the Korean tax authority by 30 June of the following year. Foreign tax residents having a domicile or place of residence in Korea for not more than 5 years in aggregate in the preceding 10 years ending on the last date of the tax year concerned are exempt from reporting.

5.9 Non-deductible costs for assignees

Non-deductible costs for assignees include costs of a foreign company's equity-based compensation that are charged back to a local company unless certain conditions are satisfied.

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