February 2025

NEWSLETTER

Tax Group

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Selected 2025 Tax Amendments

In December 2024, the Korean National Assembly enacted and finalized the 2025 Tax Law amendment proposals into Law (**Tax Law Amendments**).

Subsequently, on January 16, 2025, the MOEF also finalized and published the amendments to the Tax Law Presidential Decrees (**Tax Regulation Amendments**) (collectively, the **Tax Amendments**)

These Tax Amendments are designed to foster dynamic economic growth by reducing the tax burden and streamlining the overall tax system. Key highlights are as follows.

Some of the key Tax Amendments that may be of interest to foreign invested companies and foreign investors include the following. Unless otherwise stated, the Tax Amendments described below are effective as of January 1, 2025.

1. Additional measures to promote and strengthen National Strategic Technologies

In a move to bolster the Korea's semiconductor industry amidst global uncertainties, the government will implement additional set of support measures spanning the fiscal, tax, finance, and infrastructure sectors. These measures aim to enhance the competitiveness of the country’s key strategic technologies, particularly in regard to the semiconductor ecosystem.

Key Tax Law Amendments with respect to these measures include the following, among others:

- Increase in R&D tax credit rate from 20% to 50% and extension of the sunset period for such credits for designated “National Strategic Technologies” and “New Growth Technologies” from December 31, 2024 to December 31, 2027.
- Increase in investment tax credit rate from 15% to 25% and extension of the sunset period for such credits for designated National Strategic Technologies from December 31, 2024 to December 31, 2027.

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2. Additional amendments to Global Minimum Tax Rules

To better align the domestic Global Minimum Tax (**GloBE**) rules with the OECD's Model Rules and Administrative Guidance, the Tax Amendments clarified definitions of key terms such as "Group", "Constituent Entity", "Permanent Establishment", and "Partially Owned Intermediate Parent". The Tax Amendments (i.e., both Tax Law Amendments and Tax Regulation Amendments) also add new provisions, including exceptions to the De Minimis rules, safe harbor provisions, allocation methods for the top-up tax, and an extension to the GloBE information return filing deadline.

3. Addition of cities and provinces to Special Opportunity Development Zones

In November 2024, 6 additional cities and provinces, including Ulsan, Sejong and Gwangju, were designated as "Special Opportunity Development Zones". This follows the initial designation of 8 major cities and provinces in June 2024, including Daegu, Busan, Jeonnam, Gyeongbuk, Jeonbuk, Gyeongnam, Daejeon and Jeju.

Special Opportunity Development Zones are the Korean government's initiative to promote large-scale investment in regional areas by providing fiscal and tax support as well as enhanced settlement and living conditions. Companies, including foreign invested companies starting businesses or establishing new business places in these zones will receive various tax holidays, exemptions and special incentives.

4. Extension of special tax regime for shipping enterprises (tonnage taxation) and increase of tonnage tax rate

To enhance the international competitiveness of the shipping industry, the special corporate income tax regime for shipping enterprises (tonnage tax) will be extended by 5 years, until December 31, 2029.

In addition, different rates will apply to so-called "standard ships" (i.e., company-owned vessels, and vessels subject to certain specified charter or lease agreements), as opposed to non-standard ships. Non-standard ships will be subject to a 30% increased rate for the operating day profit per ton.

5. Abolition of the proposed Financial Investment Income Tax

To protect domestic investors and promote the development of the capital markets, the planned introduction of the Financial Investment Income Tax, including the proposed "crypto tax" or tax on virtual assets—scheduled for implementation on January 1, 2025—has been abolished. Instead, the existing capital gains tax regime for stocks and related financial instruments will remain in place.

6. Exclusion of valuation gains from the calculation of distributable profits for real estate investment companies

In order to improve tax equity between real estate investment companies under the Real Estate Investment Company Law and real estate funds under the Capital

Markets Law, and to encourage real estate investments, valuation gains arising from real estate or other assets held by a Korean real estate investment company will be excluded from the company's distributable profits when applying the "dividend income deduction" provision.. This Tax Regulation Amendment applies to tax returns filed on or after the effective date of the amended Presidential Decree of the Corporate Income Tax Law.

7. Expansion in the application of 30% of EBITDA interest limitation rule

Previously, interest expenses paid by both financial and general holding companies on amounts borrowed from foreign related parties were fully deductible (i.e. fell outside the 30% of EBITDA interest limitation rule, which was codified into the Korean international tax regime from the OECD BEPS Action 4).

Under the Tax Regulation Amendments, interest payments by general holding companies (i.e. those not engaged in the financial or insurance business) will no longer be exempt from the interest limitation rule.

8. Revision of definition of Korean tax residency for individuals

Under the Tax Amendments, effective from tax year beginning on or after January 1, 2026, Korean tax residency requirement for individuals will include not only those who reside in Korea for 183 days or more during a calendar year (as is currently the case), but also those who have resided in Korea continuously for 183 consecutive days or more over two calendar years.

9. Expansion of automatic information exchange to include crypto assets

As an anti-tax avoidance measure, under the Tax Law Amendments, the automatic financial information exchange system will be expanded to include data on crypto assets (and other virtual assets). The Amendments represent the domestic implementation of the OECD's Crypto-Asset Reporting Framework, and regulated crypto-asset operators will be notified of their new obligations by the MOEF. The requirement for the exchange and submission of crypto-asset information will be applicable from January 1, 2027. Due diligence procedures will be applicable from January 1, 2026.

10. Simplification of withholding tax exemption applications by non-residents and foreign companies investing in government bonds

Recognizing the challenges in identifying sub-investor information when investing in government bonds through OIVs, the Tax Amendments reduce the burden of proving beneficial ownership and streamline the application process. These changes aim to enhance investor convenience and stimulate investment demand.

1) Simplification of the OIV application and withholding process for tax exemption

Under the Tax Amendments, a private OIV itself will be deemed the beneficial owner of interest income and capital gains from government bonds, without the need to identify the underlying investors (as was already the case for public OIVs).

Moreover, if any of the underlying investors are Korean residents or domestic companies, they will be able to report and pay taxes directly, without incurring withholding taxes.

The scope of the withholding tax exemption on interest income from government bonds has also been expanded to include foreign private funds, in addition to the existing exemption for foreign public funds.

2) **Establishment of refund application process for non-resident individuals and foreign companies**

Non-resident individuals and foreign companies will also be able to apply for a refund of withholding tax on interest and capital gains derived from government bonds directly, not only through withholding agents (as was previously the case).

11. Simplification to Foreign Financial Account (FFA) reporting obligation process

Under the Tax Law Amendments, exemptions from FFA reporting obligations have been expanded to include: (i) individuals recognized as residents of another contracting state under a tax treaty due to a lawsuit or mutual agreement procedure; and (ii) residents and domestic companies whose FFAs are verified through foreign trust details submitted to the tax authority.

12. New compliance requirement for personal services income paid to non-resident individuals and foreign companies without a Korean PE

Previously, when Korean-sourced personal service income was paid to non-resident individuals or foreign companies without a Korean PE, the recipients could receive a withholding tax exemption under a relevant tax treaty without needing to submit any application.

Pursuant to the Tax Amendments however, for payments taking place on or after January 1, 2026, such recipients will be required to apply for exemption / non-taxation and submit a payment invoice when receiving payments for personal service income.

13. Changes to reporting procedures relating to transfer price adjustments through an amended tax return

Previously, under transfer pricing regulations, taxpayers could claim a tax refund by filing an amended tax return, to adjust a transaction price to the arm’s length price.

Under the Tax Law Amendments, taxpayers will now need to submit evidence supporting the arm's length price along with the amended tax return and declaration form for transfer price adjustment. Additionally, for such claims, the Korean tax authorities’ deliberation deadline has been extended from 2 months to 6 months from the date of filing the claim.

14. Addition of foreign companies to the controlled companies subject to gift tax due to deemed donation

When a controlled company benefits from a transaction with a related party of its controlling shareholder, it is deemed that the controlling shareholder has received a donation from the related party, and gift tax is imposed accordingly. This rule was previously limited to domestic controlled companies, but under the Tax Regulation Amendments, this has been expanded so that it also applies to foreign controlled companies.

Please note that some important proposed amendments such as **abolition of premium valuation of shares held by the largest shareholder, tax incentives for shareholder returns, reductions to inheritance and gift and tax (IGT) rates, and expansion of scope of deemed donation in transactions between a controlled company and its controlling shareholder** that were initially included in the 2024 Tax Law Amendment Proposals announced on July 25, 2024, were excluded from the final Amendments.

Lee & Ko's Tax Group has extensive experience and know-how in domestic and international tax matters. Should you require assistance, please do not hesitate to contact us.

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