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# Newsletter

May 2016

Bi-monthly Newsletter of Hanul Choongjung LLC

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*This newsletter is prepared and issued by Hanul Choongjung LLC on a bi-monthly basis and intended to provide foreign investors with an update on tax law changes in Korea and other related subjects of special interests to foreign investors. The information provided herein should not form a basis of any decision as to a particular course of action, nor should it be relied upon as a substitute for a detailed advice in individual cases.*

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■ **Change in workshop tax scheme**

**Change in workshop tax scheme in 2016**

● **What is workshop tax?**

- Applies to all businesses within the jurisdiction of local government.
- All employers who pay salaries and wages to employees are responsible for workshop tax payment.
- Assessed at 0.5% of monthly total salaries and wages paid to employees.

● **What has changed?**

- Workshop tax exemption standard was changed from the “number of employees” to the “monthly average salary”.

Before the change	After the change (Effective from 2016)
Exempt if the number of employees is 50 or less	Exempt if the monthly average salary in the most recent 12 month period is Won 135,000,000 or less (regardless of the number of employees)

If your company exceeds the exemption threshold above, the company should pay workshop tax at **0.5% on total salary paid in the current month (excluding non-taxable income as specified under the Individual Income Tax Law of Korea).**

- This amendment shall apply for salaries and wages paid on or after January 1, 2016.
- In calculating the monthly average salary, total salary paid in the most recent 12 month period including the current month should be divided by 12.

- For Jan 2016 for example,

If total salary for Feb 2015 ~ Jan 2016 ≤ Won 1,620M (Won 135M * 12 months)	exempt from workshop tax
If total salary for Feb 2015 ~ Jan 2016 > Won 1,620M (Won 135M * 12 months)	MUST pay workshop tax

● **When is workshop tax payment due?**

The workshop tax should be reported to the governing local (provincial) tax authorities and paid on a monthly basis by the 10th day of the following month after each month end.

■ **New legislation enacted to facilitate business restructuring - 'One-shot Act'**

**New legislation enacted to facilitate business restructuring - 'One-shot Act'**

In February, 2016, the Korean National Assembly approved a new legislation to facilitate business restructuring with expectations of strengthening the industrial competitiveness and revitalizing the economy. Dubbed One-shot Act (the "Act"), this special legislation will be enacted temporarily for a period of three years when it is enforced as scheduled in August 2016.

According to the Ministry of Trade, Industry and Energy, the new legislation will affect companies engaged in businesses suffering from excess supplies which raise the need for improvement in productivity and financial soundness. Affected companies will be forced to set specific goals of improvement and implement restructuring measures. Regulatory barriers will be suspended and special treatment will be provided to help companies achieve the established goals for improvement. Detailed guidance on what businesses are suffering from excess supplies and how to test the appropriateness of potential business restructuring plans from perspectives of the enhancement of productivity and financial soundness will be set forth in underlying regulations to be developed.

The new legislation mainly addresses special treatment or deregulation in the two categories of laws including the Commercial Act and the Anti-Monopoly and Fair Trade Act (the "AMFT Act").

**1. Special treatment under the Commercial Act are:**

• **Introduction of small-scale spin-off based on resolution at board of directors -**

The Act will exempt an approved company from having a special resolution at a shareholders' meeting, but instead, allow the company to have a resolution at the board of directors for expeditious small-scale spin-off if the business to be spun off represents 10% or less of the total assets of the company. Such benefit will be given to the approved company only one-time during the period of business restructuring.

• **Eased requirements for a small-scale M&A -**

The Act will exempt a surviving company from the requirements of a resolution at a shareholders' meeting, but instead, allow the company to have a resolution at the board of directors in the case where the market capitalization of a dissolving company is 20% or less of the market capitalization of the surviving company. Also, the shareholders opposing to a merger will be refrained from exercising appraisal right.

• **Eased requirements for simplified merger -**

The Act will allow a dissolving company to have a resolution at the board of directors

(rather than a special resolution at a shareholders' meeting) in the case where the surviving company owns 80% or more of the shares in the dissolving company (currently, the surviving company should own 90% or more).

- **Changes in procedures -**

For an approved company, the period for formal objections from creditors will be curtailed from 30 days to 10 days, the period for a call to general shareholders' meeting will be reduced from two weeks to seven days, and the period for the exercise of appraisal right by dissenting shareholders will also be shortened from 20 days to 10 days, respectively.

- The period for the approved company to acquire shares from the dissenting shareholders will be extended from one month to three months (from two months to six months for the unlisted company).

**2. Special treatments under the AMFT Act will suspend the existing restrictions for a specified period if a company is authorized to implement restructuring measures as follows:**

- **Special treatment for a holding company -**

The grace period for a holding company owning shares of 40% or less in a subsidiary will be extended to three years (up from one to two years). The grace period for a holding company's control in a grandson subsidiary via joint investment by subsidiaries will be extended from one year to three years. The grace period for a subsidiary owning less than 100% shares in a grandson subsidiary will change from one year to three years.

- **Special treatment for a business conglomerate subject to restrictions on cross-shareholdings -**

The grace period for the cross investment by an approved company belonging to a business conglomerate group refraining from cross investment regulated under the AMFT Act will be extended from six months to one year. The grace period for allowing guarantee for debt between the approved companies will be extended from two years to three years.

- **Filing of 2015 annual individual income tax return**

**Filing of 2015 annual individual income tax return**

Korean citizens and foreigners who are considered to be residents for tax purposes are subject to taxation on worldwide income derived from sources both inside and outside of Korea. The income includes annual income [employment (earned) income, business profits, pension, dividend, interest, and other income], severance pay, and capital gains.

A foreigner, who is a tax resident of Korea and has his address or abode in Korea not to exceed 5 years in aggregate during the past 10 years from the end of the concerned tax year, his/her foreign source income earned from January 1, 2009 shall be taxed in Korea only if such income is paid in Korea or such income is remitted into Korea.

Taxpayers having more than one source of income are required to file an annual income tax return for the year and pay taxes due on such income on or before May 31 of the following year, or prior to permanently leaving Korea.

The filing of 2015 annual individual income tax return is coming **due on May 31, 2016** together with necessary tax payments.

■ Tax tip –  
Double tax  
relief

**Tax tip – Double tax relief**

Taxes imposed by foreign governments on income recognized by a domestic taxpayer are allowed as a credit against the income taxes to be paid in Korea or as deductible expenses in computing the taxable income. In most cases, those foreign taxes will be applied as a credit. However, there is a limit on the amount of credit allowed for foreign taxes paid in a foreign country. The amount of tax credit is limited to (1) the lower of the foreign taxes actually paid or (2) the additional tax in Korea that is resulted from including the foreign income in the taxable income of the domestic corporation. For the dividend income received by the domestic parent corporation from a foreign subsidiary incorporated in a treaty country or a non-treaty country (defined), an indirect foreign tax credit is allowed under certain limitations.

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