



GES NewsFlash

Korea – Ministry of Strategy and Finance Announces Proposed Tax Regulation Changes

December 7, 2009

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Summary

Every year in late summer or early autumn, the Ministry of Strategy and Finance ("MOSF") releases a list of proposed tax regulation changes that the MOSF would like to install in the next tax year. Tax regulation changes proposed by the MOSF are subject to approval by the General Assembly; however, the General Assembly routinely approves the majority of tax regulation changes proposed by the MOSF. General Assembly approval usually happens at the end of December.

Some of this year's proposed tax regulation changes may affect international assignees posted to Korea. The following article briefly describes two of the most significant tax regulation proposed changes affecting foreigners in Korea.

Change to special taxation treatment for foreign employees

As of January 1, 2004, the revised Article 18-2 of the Korean Tax Incentives Limitations Law ("TILL") and Article 16-2 of the Presidential Decree of the same Law allows foreigners to adopt one of the following two alternatives:

- **30% Overseas Assignment Allowance Exclusion**

Where a foreigner's income tax is calculated using the regular progressive income tax rates, an overseas assignment allowance equal to 30% of annual gross earned income is excluded as non-taxable.

- **Flat Income Tax Rate**

The flat rate of tax is an election made when filing the annual tax return. If elected, Korean income tax on earned income is calculated by multiplying annual gross earned income by the flat tax rate. If the flat rate of tax is elected, the taxpayer is not allowed to deduct non-taxable income, or any other deductions, exemptions, exclusions or tax credits related to earned income.

Both the 30% overseas assignment allowance exclusion and flat income tax rate election are subject to sunset provisions, which in the past have been routinely extended. Effective January 1, 2009, the flat income tax rate election sunset provision is extended to December 31, 2012. Currently, the 30% overseas assignment allowance exclusion is due to expire December 31, 2009.

It has been proposed by the MOSF to not renew the 30% overseas assignment allowance and let this regulation expire on December 31, 2009 as promulgated in the current sunset provision.

Deloitte's View

If the 30% overseas assignment allowance is allowed to expire on December 31, 2009, for tax years starting 2010 and later, the annual gross earned income threshold where the flat rate of tax becomes more beneficial will decrease dramatically, which may result in a significant increase in Korean income tax liability for foreign taxpayers whose annual gross earned income was below the threshold for tax years 2009 and prior.

Companies should reevaluate projected Korean income tax liability for assignees posted to Korea for tax years 2010 and later.

Phaseout of earned income tax exemption for qualified foreign technicians/engineers

Currently, 100% of wages received from a domestic Korean entity by a qualified foreign technician/engineer providing services in Korea to the domestic Korean entity are exempt from Korean income tax for up to five years from the date the qualified foreign technician/engineer commenced rendering services in Korea. To qualify for the tax exemption, the foreign technician must have at least five years work experience or three years experience with a bachelor's degree or higher. Additionally, the exemption is only allowed for work performed in certain fields prescribed in the tax regulations such as construction, mining, technology intensive industries, etc. Also, a Korean branch of a foreign corporation does not qualify as a Korean entity under these provisions.

It has been proposed by the MOSF to reduce the tax exemption on earned income of qualified foreign technician/engineer from 100% to 50% for the next two years (2010 and 2011) and to cancel the qualified technician/engineer tax exemption starting January 1, 2012.

Deloitte's View

Company's having employees currently enjoying the qualified foreign

technician/engineer tax exemption should evaluate the impact of the proposed phaseout of the tax exemption.

People to Contact

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