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Global Tax Alert

Korea announces 2020 tax reform proposals

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Executive summary

Korea's Ministry of Strategy and Finance announced 2020 tax reform proposals (the 2020 Proposals) on 22 July 2020. Unless otherwise specified, the 2020 Proposals will generally become effective for fiscal years beginning on or after 1 January 2021.

This Alert summarizes the key proposals.

Detailed discussion

Extension of the relief period for net operating losses (NOLs)

The carryforward period for NOLs will be extended from 10 years to 15 years. This rule applies to tax losses reported on or after 1 January 2021.

Reduction of securities transaction tax (STT)

Lower STT rates will apply to securities transactions occurring on or after 1 January 2021. The current and proposed rates are as follows:

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Stock exchange	Current rate	Proposed rate (2021-2022)	Proposed rate (2023)
KOSPI Market[1]	0.1%	0.08%	0%
KOSDAQ Market	0.25%	0.23%	0.15%
KONEX Market	0.1%	0.1%	0.1%
Other	0.45%	0.43%	0.35%

Repeal of the foreign tax deduction method

The Corporation Income Tax Law (CITL) provides for relief from double taxation by allowing taxpayers to choose either a foreign tax credit or a deduction for foreign tax. The 2020 Proposal repeals the foreign tax deduction method and will be effective for fiscal years beginning on or after 1 January 2021.

Introduction of taxation of virtual assets[2]

The 2020 proposals introduce a capital gains tax regime for the disposal of virtual assets. Gains derived from the disposal of virtual assets by a foreign individual or foreign corporation are categorized as "other income" subject to withholding tax at the lesser of 11% of the transfer price or 22% of the net capital gains. This rule applies to transactions occurring after 1 October 2021.

Extension of the rollback period for Advance Pricing Agreements (APAs)

The rollback period for APAs will be extended. For bilateral APAs, the rollback period will be extended from five to seven years, while for unilateral APAs, the rollback period will be extended from three to five years. This treatment applies to APA applications filed on or after 1 January 2021.

Amendment to transfer pricing (TP) forms and documentation

The current Law for the Coordination of International Tax Affairs (LCITA) provides a waiver from the submission of the Summary of International Transactions and Declaration of Transfer Pricing Methods (TP disclosure forms) for taxpayers that are required to file the master file and local file, if the TP waiver form is filed at the same time as the corporate income tax return.

To improve compliance by taxpayers and to ease the administrative burden on tax authorities, the 2020 Proposal removes the requirement for taxpayers to file the TP waiver form.

In addition, the filing period for the TP documentation will be extended. The following table summarizes the changes.

<table>
<tr><th>TP documentation</th><th>LCITA</th><th>2020 Proposal</th></tr>
<tr><td>▸ Summary of International Transactions
▸ Summary of Income Statements</td><td>By the statutory due date of the corporate income tax return[3]</td><td>Within 6 months from the fiscal year end</td></tr>
<tr><td>▸ Master file and local file</td><td>Within 12 months from the fiscal year end</td><td rowspan="2">Within 12 months from the next day of the fiscal year end</td></tr>
<tr><td>▸ APA annual report[4]</td><td>Within 6 months from the next day of the statutory due date of the Corporate Income tax return[5]</td></tr>
</table>

This change applies to submissions of TP documentation on or after 1 January 2021.

Payment statement non-filing penalties introduced for foreign entities

The current CITL requires that the payer of Korean-sourced income to a foreign individual or corporation subject to withholding is required to submit a payment statement on or before the end of February following the year in which the year such withholding is made. Currently, only domestic payers of Korean-sourced income are subject to penalties for non-filing.

The 2020 Proposals will now subject foreign payers (including a permanent establishment of a foreign entity) of Korean-sourced income subject to withholding to penalties for non-compliance with this filing requirement.

This rule applies to filing obligations on or after 1 January 2021.

Changes to the calculation of interest for refunds of national taxes

The current CITL provides that when the tax authority pays a national tax refund, the interest is required to be paid for the period from the date that the refund claim was requested, and the day of the appropriation or decision on the payment.

The 2020 Proposal changes the date of commencement of the interest accrual from the date on which refund claim is requested to the date on which the national tax is paid. This rule applies to payments or appropriations of tax refunds after the enactment of the Enforcement Decree of the CITL.

Endnotes

1. Agricultural and fishery community special tax rate equal to 0.15% is also imposed in addition to STT.
2. Virtual assets are electronic certificates (including relevant rights) of economic value that can be traded electronically (e.g. digital currency such as bitcoin).
3. A corporate income tax return must be filed within three months from the end of the fiscal year.
4. Taxpayers must file an annual report reflecting the details of the APA.
5. See endnote 2.

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