Law Firm Services

South Korea is expected to extend for an additional 2 years the 18.7% flat rate of income tax currently available to foreign expatriate workers

PwC's Law Firm Services
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Background

Foreigners working in Korea can generally elect to have their employment income taxed at a flat rate of 18.7% (including resident surtax) rather than the normal progressive income tax rates of between 6.6% to 41.8% (including resident surtax). The 18.7% rate is currently subject to a sunset clause and expires on December 31, 2014.

The Korean Ministry of Strategy & Finance ("MOSF") announced the government's bill for the 2014 tax reform proposals on August 6, 2014. The proposals include an extension to the sunset clause of the 18.7% flat rate of income tax for a further 2 years to December 31, 2016. The proposals are now under consideration.

The Changes in More Detail

Currently, a foreigner working in Korea may be eligible to elect for the flat tax rate to apply to their employment income if certain conditions are satisfied in accordance with Article 18-2 of Special Tax Treatment Control Law ("STTCL").

The proposed changes are as follows:

Description	Current Provision	Proposed Changes
Eligible Applicant	Foreign Executives or Foreign Employees *Exception* - Not available to foreigners working for a company that is regarded as a "related party" as specified under the STTCL	Same
Income subject to the flat rate	Employment Income received for services rendered in Korea	Same
Applicable Period	5 year time limit from the 1st day a foreigner starts working in Korea to the end of the tax year immediately preceding the year in which the five year anniversary of the 1st day of work falls	Same
Flat Tax Rate	17% (18.7% including resident surtax)	Same

Sunset Clause	Currently scheduled to sunset at the end of December 2014	Extended until the end of December 2016 *Exception* - The sunset clause will not apply to foreigners working for a "Certified Corporate Headquarters (*)"
Interim Measures	Foreigners who started working in Korea prior to January 1, 2014 can continue to apply the flat tax rate without being subject to the 5-year time limit	Not Determined Yet

(*) "Certified Corporate Headquarters" refers to the headquarters of multinational companies that handle core functions (business strategy, human resource management, research and development, etc.).

Under the current law, there is a supplementary provision that means that a foreigner who started working in Korea prior to January 1, 2014 is not subject to the 5 year time limit that was introduced into law this year. However, this supplementary provision is currently due to expire on December 31, 2014 and it has not yet been determined whether it will be extended.

The MOSF will finalize the government's bill through consultations with other government ministries. The finalized government's bill will then be submitted to the National Assembly no later than September 23, 2014. If approved by the National Assembly in December 2014, the proposed amendments are expected to be implemented from January 2015.

We expect some further announcement regarding the application of the 5 year time limit to foreigners that started working in Korea prior to January 1, 2014 later in the year as the bill passes through the approval process.

What does this mean for foreign partners and lawyers?

In general, the extension of the 18.7% rate to December 31, 2016 is good news for foreign partners and lawyers working in Korea as they may continue to elect for their employment income to be taxed at 18.7%.

Foreign partners and lawyers that started their employment in Korea from January 1, 2014 are subject to the 5 year time limit in applying this rate.

Foreign partners and lawyers that started working in Korea prior to January 1, 2014 may elect to apply the flat rate for the 2014 tax year but it is not yet clear whether they will be subject to a time limit in applying the rate after the end of 2014. They should therefore continue to monitor developments in this regard.

For more information on how these changes may impact on your law firm partners in South Korea, please contact:

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