삼일회계법인

Tax News Flash

January 19, 2026

Government's Bill to Amend Presidential Decrees of Tax Laws

The Ministry of Economy and Finance (MOEF) has announced a government bill proposing amendments to the Presidential Decrees of tax laws (the "Bill"). This follows the amendment of tax laws at the end of December 2025. The Bill, announced on January 16, 2026, seeks public comments until February 5, 2026. The final version of the Bill will be proclaimed at the end of February 2026 after being finalized in a cabinet meeting. If approved, most of the proposed amendments will take effect from the date the amended rules are proclaimed or from the fiscal year in which the effective date falls, unless otherwise specified.

Provided below is a brief summary of the selected significant changes contained in the Bill.

Individual Income Tax Law (ITL)

New provision for excluded scope of foreign shares subject to exit tax

Currently, where an individual who is a Korean resident departs Korea and becomes a non-resident for Korean tax purposes, an exit tax may apply to deemed capital gains on domestic shares held by the individual at the time of departure, provided the individual meets certain conditions, including a minimum five-year residency period and classification as a large shareholder as defined under the ITL. Effective from January 1, 2027, the recently amended ITL expands the scope of assets subject to exit tax to include "foreign shares" (e.g., shares or interests issued by a foreign corporation), and the large shareholder condition does not apply to foreign shares. The proposed Bill further specifies the categories of foreign shares that are excluded from exit tax. Specifically, foreign shares falling into any of the following categories will be excluded: (1) where the total value of foreign shares owned by an individual at the time of departure is KRW 500 million or less; (2) foreign shares owned by a foreign employee if, during the period beginning ten years before the date of departure and ending on the date of departure, the individual performed employment services in Korea for at least 80% of the period of his or her residence in Korea; and (3) foreign shares acquired by the foreign employee's spouse and minor children before the employee's commencement date of employment in Korea. Conditions for (2) and (3) apply only if the employee departs Korea within six months from the date employment in Korea ceases. The new provision will apply, for exit tax purposes, where the individual's departure occurs on or after January 1, 2027.

Valuation method for deemed transfer value of foreign shares

For purposes of assessing the exit tax, the proposed Bill specifies how to determine the deemed transfer value of foreign shares. For foreign listed shares, the transfer value is deemed to be the standard market value determined pursuant to the ITL, whereas for foreign unlisted shares, it is deemed to be the weighted average of the adjusted net income per share and the adjusted net asset value per share, as determined under the valuation method in Article 63 of the Inheritance and Gift Tax Law. The proposed valuation rules for foreign shares will be added to the existing rules for domestic shares (listed: standard market value determined pursuant to the ITL; unlisted: comparable transaction price with unrelated parties or standard market value determined pursuant to the ITL). The new provisions will apply to foreign shares, for exit tax purposes, where the individual's departure occurs on or after January 1, 2027.

Corporate Income Tax Law (CITL)

Clarification of criteria for creating a deemed permanent establishment (PE)

To align with international standards, the criteria for creating a deemed PE through an agent have been clarified. While the following categories of agents giving rise to a deemed PE are maintained - (i) a person who habitually stores assets owned by a foreign corporation and repeatedly delivers them and (ii) a person who collects insurance premiums or underwrites insurance with respect to risks in Korea, the rules governing when an independent agent give rise to a deemed PE have been refined. Specifically, under the proposed Bill, an independent agent that carries on the principal part of the business "exclusively or almost exclusively for related parties" will be regarded as creating a deemed PE, replacing the prior reference to an independent agent acting "mainly for a specific foreign corporation".

Revenue recognition timing for conditional or time-limited sales

Currently, for sale of goods, revenue is recognized on the date the goods are delivered. In an attempt to rationalize the revenue recognition timing for conditional or time-limited sales, the proposed Bill specifies that in case of conditional or time-limited sales where goods are sold subject to a condition or a term, revenue should be recognized on the date the condition is satisfied or the term lapses such that the sale becomes final. The proposed change will apply to sales made in fiscal year beginning on or after the effective date of the amended Presidential Decree.

Valuation method for virtual assets

To rationalize the computation of income from virtual assets, the valuation method will be amended from the current First-In, First-Out (FIFO) method to the total average cost method. The proposed change will apply to transactions conducted on or after January 1, 2027.

Fine for failure to submit the statement of a foreign corporation liaison office

If a foreign corporation maintains a liaison office that performs only non-business functions in Korea, it shall submit, by February 10 of the following year, the Statement of Status of Foreign Corporation Liaison Office to the head of the district tax office having jurisdiction over the location of the liaison office. The statement includes (i) the liaison office's basic information such as its name and unique identification number, etc., (ii) name and location of the foreign corporation that established the liaison office, together with matters relating to its transactions, investments and other activities in Korea and (iii) operation of the liaison office including its lease arrangements and staffing. Under the recently amended CITL, effective January 1, 2026, if a foreign corporation fails to submit the statement or submits a false statement, the competent tax office may order the foreign corporation to take corrective action within a prescribed period of 30 days. Under the proposed Bill, failure to submit the statement, submission of a false statement, or non-compliance with an order to take corrective action is subject to an administrative fine of up to KRW 5 million. The proposed fine applies to non-submission or false submission made on or after January 1, 2026.

Inheritance & Gift Tax Law (IGTL)

Refinement of the valuation method for unlisted shares where the value of real estate or shares account for at least 80% of total assets

Under the IGTL, in general, the value of shares issued by an unlisted Korean company ("unlisted shares") is determined at the greater of (i) the weighted average of adjusted net income per share and adjusted net asset per share in a 3:2 ratio or (ii) 80% of adjusted net asset per share. The Bill proposes to raise this threshold from 80% to **100%** if the "value of shares or stocks" owned by the unlisted Korean company constitutes at least 80% of the company's total assets. In addition, for an unlisted Korean company that is real estate-rich as prescribed in the IGTL, the value of unlisted shares is determined at the greater of (i) the weighted average of adjusted net income per share and adjusted net asset per share in a 2:3 ratio or (ii) 80% of the adjusted net asset per share. The Bill also proposes to raise this threshold from 80% to **100%** if the "value of real estate" owned by the unlisted company constitutes at least 80% of the company's total assets.

Further, as an exception to the general rule for valuing unlisted shares, the value of shares is currently determined solely based on adjusted net asset value in certain cases listed under the Presidential Decree. The Bill proposes to exclude, among others, the following cases from that list: where real estate owned by the company accounts for at least 80% of its total assets, and where the shares or stocks owned by the company accounts for at least 80% of its total assets.

Special Tax Treatment Control Law (STTCL)

Separate taxation on dividend income from high-dividend companies

The recently amended STTCL introduced a separate tax regime for dividends received by individual residents from domestic high-dividend companies to revitalize the stock market. To qualify as a high-dividend company, the domestic company must meet the following requirements: 1) it must be a listed company according to the Korean Capital Market Act (other than KONEX listed companies) as of the end of the relevant fiscal year, excluding investment companies under this Act and other similar companies prescribed by Presidential Decree; 2) the amount of dividend income occurring in the previous year must not have decreased compared to the dividends for the fiscal year that includes December 31, 2024; and 3) either i) the dividend payout ratio from profit dividends prescribed by Presidential Decree is at least 40%, or ii) the dividend payout ratio for the previous fiscal year is at least 25% and profit dividends have increased by at least 10% compared to the two immediately preceding years. Dividend income received by individual resident shareholders from qualifying high-dividend companies will not be aggregated into their global income for income tax purposes; instead, it will be taxed separately at a four-tier progressive tax rate ranging from 14% to 30%. The proposed Bill further provides details on the categories of entities excluded from the definition of qualifying high-dividend companies, dividend income eligible for separate taxation, and the method for calculating the dividend payouts. This tax regime will apply to dividend income received by individual residents on or after January 1, 2026, through the end of the fiscal year that includes December 31, 2028.

Entities excluded from high-dividend companies. Under the proposed Bill, certain special purpose companies, such as investment-specialized companies and real estate investment trusts (REITs), which are not subject to corporate income tax by applying income deductions on dividends under Article 51-2 of the CITL, will be generally excluded from the scope of high-dividend companies subject to separate taxation.

Scope of dividend income from high-dividend companies. Under the proposed Bill, profit dividends eligible for separate taxation will consist of cash dividends, which specifically include dividend income arising in connection with securities lending transactions used as collateral, exchange-traded fund (ETF) creation, or repurchase (RP) transactions entered into by individual shareholders with security companies, but will exclude share dividends.

Determination of dividend payout. The Bill proposes that the dividend payout ratio shall be determined based on consolidated financial statements, calculated by dividing the total amount of cash dividends by the net income attributable to shareholders of the controlling parent company. If consolidated financial statements are not prepared, the payout ratio is determined based on the standalone financial statements. Where a company pays a dividend when net income is zero or negative (i.e., a dividend despite a loss), the general rule is that the dividend payout ratio shall be deemed to be 25% and dividends must have increased by at least 10% compared to the preceding year; as an exception, if the debt-to-equity ratio exceeds 200% based on total equity, the dividend payout ratio shall be deemed to be 0%. In addition, for companies which commence business on or after January 1, 2024, one of the eligibility criteria for high-dividend companies is relaxed such that the dividends need only be maintained at or above the level of the first business year rather than the immediately preceding year.

Expansion of the scope of R&D expenses eligible for a tax credit

Under current rules, a tax credit is available for a specified list of research and manpower development (R&D) expenses, including commissioned or joint R&D expenses, materials and labor costs, software lease or purchase costs, facility rental fees for R&D purposes, technology information and guidance fees, design development guidance fees, patent research and analysis costs, and cloud service fees. Under the proposed bill, the scope will be refined such that cloud service fees are eligible only when used by a dedicated R&D department, and eligibility will be extended to include the cost of purchasing AI training data, also limited to use by a dedicated R&D department.

New definition of highly skilled R&D workforce for tax reduction purposes

The recently amended STTCL expands tax reductions or exemptions for qualifying high-tech companies that operate within designated R&D Special Zones, based on the composition of their skilled R&D workforce. Before the amendment, the tax reduction amount was calculated as the sum of 50% of investment accumulation and KRW 15 million multiplied by the number of full-time employees (KRW 20 million for youth startups and service sectors). After the amendment, the calculation remains 50% of investment accumulation plus KRW 15 million per full-time employee, with the KRW 20 million rate extended to youth startups, service sectors, and highly skilled talent as prescribed in the Presidential Decree of the STTCL. For this purpose, the Bill proposes that highly skilled talent means full-time R&D personnel who meet both of the following requirements: they hold a doctoral degree in a natural sciences, engineering, or medical field, and they are research staff employed by a company located in a designated R&D Special Zone (excluding personnel engaged solely in administrative tasks).

Adjustment to the total salary threshold for full-time employees for tax credit purposes

The Bill proposes increasing the total annual salary threshold for determining full-time employees eligible for certain tax credits from KRW 70 million to KRW 80 million, aligning it with the threshold used for the additional tax on excess retained earnings reserves. Under current rules, an SME that shares business performance with employees through performance bonuses may claim a 10% tax credit on bonuses paid to eligible full-time employees by December 31, 2027, if prescribed requirements are met, including that an eligible full-time employee’s total annual salary does not exceed KRW 70 million. The proposal raises the employee’s total annual salary threshold to KRW 80 million. The proposal also raises, from KRW 70 million to KRW 80 million, the salary threshold used to determine eligibility for the tax credit available to companies that increase salaries paid to eligible full-time employees. Currently, SMEs (20%) and middle-scale companies (10%) may claim a tax credit through December 31, 2028, on the portion of annual salary increase that exceeds the average increase over the three immediately preceding years, provided the number of eligible full-time employees for the fiscal year is at least same as in the prior fiscal year. If enacted, the revised threshold would apply to fiscal years that include the enforcement date of the amended Presidential Decree.

Expanded application of the integrated investment tax credit for R&D-purpose facilities used for national strategic technologies

The higher-rate integrated investment tax credit applies to eligible research and testing purpose facilities ("R&D-purpose facilities") used for R&D relating to national strategic technologies, as well as to R&D-purpose facilities used for R&D of new growth and source technologies. The definition of eligible R&D-purpose facilities also covers situations where such facilities are used concurrently for R&D on technologies other than national strategic technologies or new growth and source technologies. To further support investment in R&D infrastructure, the proposal broadens the definition of eligible R&D-purpose facilities to include cases where such facilities are temporarily used for commercialization purposes.

Accelerated depreciation for tangible assets used in smart factory operations

The recently amended STTCL introduces an accelerated depreciation regime for SMEs that acquire business-use tangible assets specified by Presidential Decree, such as machinery and equipment, necessary to establish and operate a smart factory (as defined under applicable law). The accelerated depreciation is available up to the deduction limit calculated in accordance with the Presidential Decree. Under the proposed Bill, eligible assets will include business-use tangible assets such as machinery and equipment, but exclude vehicles and transportation equipment, ships and aircraft, buildings and structures, and intangible assets (for example, goodwill, design rights, and patents). When accelerated depreciation is elected, the asset's useful life may be adjusted to within 50% of the standard useful life, whereas in general cases adjustments are allowed only within 25% of the standard useful life.

Proposed changes to the integrated employment tax credit

The integrated employment tax credit is calculated by multiplying the increase in the number of qualifying full-time employees in the current tax year, compared with the previous tax year, by a per-employee credit amount. To strengthen incentives for employment growth, the recently amended STTCL would introduce a minimum annual increase requirement for middle-scale and large companies, as prescribed by Presidential Decree. Under the proposed Bill, the minimum increase would be five employees for middle-scale companies and ten employees for large companies, and the credit would apply only to the number of new full-time employees in excess of the applicable minimum. For tax years that include December 31, 2024 or December 31, 2025, the previous provisions would continue to apply.

The Bill also proposes two procedural changes. First, the method for counting full-time and youth employees would be simplified. Under the current rules, the headcount is the monthly average of the number of full-time or youth employees at each month-end in the relevant tax year (with certain part-time employees counted as 0.5 or 0.75). Under the proposed method, which aligns with the approach used under the corporate tax reduction and exemption rules for high-tech enterprises in designated R&D Special Zones, the headcount would be determined by dividing, for each full-time or youth employee, the total number of months worked during the tax year by the number of months in that year and summing the results across all employees. For these purposes, an employee on the payroll at month-end is deemed to have worked a full month. Second, youth status (age 15–34) would be determined as of the date the employment contract is signed in the relevant tax year. An individual aged 15–34 on the contract date would be treated as a youth for four years from that date (three years for large companies), even if they turn 35 during that period. For tax credits related to increases in full-time employees in tax years that include December 31, 2024 or December 31, 2025, the current rules would continue to apply.

Clarification on the recapture of tax benefits for in-kind contributions of foreign subsidiary shares by domestic corporations

The STTCL now provides a special tax treatment for domestic companies that invest in foreign companies through in-kind contributions of shares in their foreign subsidiaries. Where conditions are met, capital gains arising from such in-kind contributions are deferred for four years from the year of contribution and then recognized in equal installments over the subsequent three years. If the domestic contributing company disposes of the shares in the foreign company that it acquired in exchange for the in-kind contribution, the deferred amount is recaptured into taxable income as prescribed by Presidential Decree. Under the proposed Bill, the recapture is calculated as the portion of the capital gain from the in-kind contribution that remains unrecognized at the end of the preceding fiscal year, multiplied by the ratio of the number of contributed shares required to be disposed of during the current year to the number of such shares held at the end of the preceding fiscal year.

The special tax treatment ceases to apply in either of the following cases: the foreign receiving company disposes of at least 50% of the shares in a foreign subsidiary that it received through the in-kind contribution, or the domestic contributing company’s equity ratio in the foreign company falls below 50%.

Proposed changes to tax incentive limits for relocation to non-metropolitan areas

The recently amended STTCL introduces a cap on tax incentives for businesses relocating to non-metropolitan areas. The cap is calculated as the sum of 70% of cumulative domestically made investment and KRW 15 million per locally employed full-time employee, with a higher per-employee amount of KRW 20 million applying to youth employees and to employees of qualifying service businesses. If the number of full-time employees decreases within two years after a taxpayer receives an exemption or reduction, a recapture applies in an amount equal to KRW 15 million per reduced headcount, or KRW 20 million per person in the case of youth employees and employees in qualifying service sectors. In this regard, the following details are proposed under the Bill.

- Cumulative domestically made investment refers to the total investment in qualifying business-use assets through the tax year in which the reduction is claimed. The scope of qualifying business-use assets will be prescribed in the Ordinance of the Ministry of Economy and Finance.
- For purposes of these provisions, the term service business excludes agriculture, forestry, fisheries, mining, manufacturing, electricity, gas, steam and water supply, construction, and consumption-oriented service businesses.
- Where a taxpayer has benefited from an additional reduction tied to employment increases, the recapture related to a subsequent headcount decrease is calculated as the additional employment-based reduction received minus an amount equal to the number of full-time employees decreased in the relevant year multiplied by KRW 15 million (or KRW 20 million for youth employees or employees of qualifying service businesses).
- The scope of full-time employees is measured under the rules applicable to the integrated employment tax credit. A full-time employee is an individual whose actual period of work is at least one year, and a youth

full-time employee is a full-time employee between ages 15 and 34.

- The method for calculating the number of full-time employees follows the approach used under the corporate tax reduction and exemption rules for high-tech enterprises located in designated R&D Special Zones.

Tighter requirements for recapturing tax benefits on relocation of head office outside metropolitan areas

The STTCL provides corporate tax exemptions or reductions to encourage corporations to relocate factories or headquarters outside designated Seoul Metropolitan Areas when certain requirements are met. These benefits are subject to recapture if, after relocation, the corporation maintains in the Seoul Metropolitan Areas an office exceeding the size standard prescribed by Presidential Decree of the STTCL. The standard is based on the ratio of the annual average number of full-time head-office personnel in the Seoul Metropolitan Areas to the annual average number of full-time head-office personnel after the close of the tax year in which the third anniversary of the relocation falls. Under current rules, recapture applies if this ratio is 50% or more. The proposed Bill lowers this threshold to 40%.

Revision of the additional tax on excess corporate earnings reserves

The amended STTCL revises the regime for taxing excess corporate earnings reserves of domestic companies within conglomerate groups that are subject to cross-shareholding restrictions under the Anti-Monopoly and Fair Trade Act. The revision is intended to further encourage the deployment of profits to productive uses, such as facility investment, wage increases, and mutual-growth initiatives with SMEs. The Bill proposes the following details.

Addition of dividends as qualifying expenditure. To incentivize the distribution of profits to shareholders, certain dividends will be added to the list of qualifying “reinvestment” expenditures deductible in computing the excess corporate earnings reserves subject to the 20% additional tax. Accordingly, applicable companies can reduce their excess earnings reserves by increasing dividend payouts. The prescribed scope covers cash dividends paid during the fiscal year, including annual dividends distributed through the appropriation of retained earnings for the immediately preceding fiscal year. Dividends funded through reductions of capital surplus or legal reserves are excluded.

Higher reinvestment ratios. Currently, the excess corporate earnings reserves subject to the additional tax must be computed using one of the following methods, at the election of the applicable company: under Method 1, adjusted taxable income for the fiscal year x **70%** minus the total amount of facility investment, wage increases and expenditures for mutual growth of large corporations and SMEs x 20%; under Method 2, adjusted taxable income for the fiscal year x **15%** minus the total amount of wage increases and expenditures for mutual growth of large corporations and SMEs x 20%. The proposed Bill increases the required ratios from 70% to <u>**80%**</u> under Method 1 and from 15% to <u>**30%**</u> under Method 2.

New additions to adjusted taxable income. An applicable company’s adjusted taxable income for a fiscal year is computed by making prescribed additions to, and deductions from, its taxable income for the fiscal year. Additions include items such as interest accrued on national tax refunds and add-backs of excess charitable contributions carried forward. Under the proposed Bill, non-taxable dividend income, non-taxable dividend income from foreign subsidiaries (applicable from January 1, 2027), and reversals of statutory mandatory reserves are added to the list of additions. The list of deductions remains unchanged and includes net operating losses carried forward, statutory mandatory reserves, and other prescribed items.

Reduction in tax credits for electronic filing

The tax credits for electronic filing are reduced as follows: the credit for individual income tax returns and corporate income tax returns decreases from KRW 20,000 to KRW 10,000 per filing; the credit for VAT returns decreases from KRW 10,000 to KRW 5,000; and the credit for capital gains tax returns remains unchanged at KRW 20,000. These changes will apply to electronic filings made on or after the enforcement date of the amended Presidential Decree.

Expansion of tax incentives for reshoring companies

Under the current regime, companies that close or reduce an overseas business site operated for at least two years and either repatriate operations or establish a new business in Korea may claim a 100% exemption from individual or corporate income tax for the first seven years, followed by a 50% reduction for the subsequent three years. In addition, capital goods imported as a result of closing an overseas business site are fully exempt from customs duties for five years from the date of certification as a reshoring company; if the overseas site is only partially closed, a 50% reduction in customs duties applies for the same period.

The Bill proposes to broaden the scope of partial reshoring. Specifically, partial reshoring will now include cases where the downsizing of the overseas business site is completed within four years after establishing a new or additional business site in Korea. Currently, partial reshoring encompasses two cases: where a domestic resident without an existing domestic business site commences a new business in Korea, and where a domestic company establishes or expands a domestic business place within three years after completing the downsizing of its overseas business site, including at least a 25% reduction in sales revenue from its overseas business site. The scope of full-scale reshoring remains unchanged and includes establishing a new or additional domestic business site within three years of closing or selling an overseas business site, or alternatively, closing or selling the overseas business site within four years after establishing a new or additional domestic business site.

For partial reshoring cases in which the reduction of the overseas business site is completed within four years of establishing a new or additional domestic business site, the amount of the tax reduction or exemption will be calculated using the following formula: post-reshoring income multiplied by the production volume reduced at the overseas business site (as recognized and confirmed by the Minister of Trade, Industry and Energy) divided by domestic sales revenue.

The proposed changes will apply to new or additional domestic business sites established on or after the effective date of the amended Presidential Decree, and to import declarations for the establishment or expansion of a domestic business site made on or after that effective date.

The proposed Bill also expands the recapture provisions. Currently, tax reductions or exemptions previously claimed are subject to recapture if certain prescribed events occur. Under the proposal, recapture will additionally apply if the downsizing of the overseas business site is not completed, in which case the entire amount of tax reductions or exemptions previously claimed will be recaptured.

Expansion of new growth and source technologies eligible for R&D tax credit

The list of new growth and source technologies eligible for an enhanced tax credit for qualifying R&D expenditure will be expanded from 273 to 284 technologies across 14 sectors. These sectors include future mobility, intelligent information technologies, next-generation software, content industries, electronic information devices, next-generation broadcasting and telecommunications, bio-health, energy and environment, convergence and advanced materials, robotics, aerospace and aviation, advanced materials, components and equipment, carbon neutrality, and the defense industry. Illustrative examples of the 13 newly eligible technologies include production technology for veterinary pharmaceutical drug candidates; recycling technology for saline wastewater generated in secondary battery manufacturing; conversion technology to produce 4N-grade chlorides or fluorides based on high–melting-point metals; manufacturing technology for high-silicon-content, low-core-loss electrical steel sheets; and manufacturing and process technology for functionalized graphene-based composite materials for next-generation electronic devices and energy systems.

Expansion of national strategic technologies eligible for the highest R&D tax credit

The scope of national strategic technologies qualifying for the highest R&D tax credit will be expanded from 78 to 81 technologies across eight sectors. These sectors include semiconductors, secondary batteries, vaccines, displays, hydrogen, future transportation and mobility, biopharmaceuticals, and the AI industry. Newly eligible technologies will encompass the development of advanced materials and components for next-generation multi-chip modules (MCM), as well as transportation and propulsion technologies for environmentally friendly advanced vessels, including LNG cargo containment systems, and digital design, production, and operation technologies for such vessels.

Basic National Tax Law (BNTL)

Overhaul of the late payment penalty regime including a monthly penalty rate

Under current rules, the late payment penalty is calculated daily at 0.022% of the unpaid tax, multiplied by the number of days from the day after the statutory payment due date through the actual payment date, excluding the period from the payment notice issue date to the designated payment due date. Under the recently amended BNTL, the framework for late payment penalty has been reorganized by applying the monthly penalty rate to the period after the designated payment due date. The Bill further proposes that, for the period from the statutory payment due date to the payment notice issue date, the late payment penalty continues to be calculated daily at 0.022% per day; however, for the period from the designated payment due date stated in the notice to the actual payment date, the late payment penalty will be calculated monthly at 0.67% of the unpaid tax for each month elapsed.

In addition, the proposed Bill clarifies the delivery costs for dunning notices which are included in the late payment penalty. Specifically, the delivery cost means the registered mail charges announced by public notice under Article 12 of the Presidential Decree of the Postal Service Act. The proposed changes will apply to cases where the designated payment due date falls on or after July 1, 2026.

Expansion of the scope of partial tax audits

As a general rule, tax audits are conducted on a comprehensive basis covering all tax items for which the taxpayer has filing and payment obligations under the tax laws, except in certain limited circumstances where only a specific tax item needs to be examined. As an exception, a partial tax audit focused on a specific item may be conducted in any of prescribed cases, including where a corporation has traded shares or equity interests at a value different from fair market value; where an urgent audit is required due to specific suspicions (e.g., unrecorded transactions or fictitious transactions); or where it is necessary to verify the details of an application for non-taxation or tax exemption under a tax treaty. The Bill proposes to expand the scope of partial tax audits to allow the tax authority to examine the contents of an application for advance pricing agreement (APA), which seeks advance approval of the arm's length price calculation method, if, after filing, the application is canceled or withdrawn, or the procedure is otherwise discontinued.

Expansion of the duties and authority of the taxpayer protection officer

The duties and authority of the taxpayer protection officer include attending tax audits of individual sole proprietors and domestic corporations whose revenues fall below industry-specific thresholds (e.g., KRW 300 million for manufacturing businesses, 150 million for real estate leasing business), resolving tax-related grievance petitions and reviewing tax auditors' compliance with audit rules, among others. In an attempt to strengthen taxpayer rights by expanding the duties and authority of the taxpayer protection officer, the Bill proposes to remove the revenue threshold for audit observation so that the taxpayer protection officer may attend tax audits of any taxpayers.

Law for Coordination of International Tax Affairs (LCITA)

Proposed refinements to the Global Minimum Tax Rules

The Bill includes proposed amendments, seeking to refine the global minimum tax rules. Proposed refinements to the rules include, among others, the following:

Introduction of allocation methods for deferred taxes among constituent entities. For each fiscal year, a constituent entity (CE)'s adjusted covered taxes are calculated based on the portion of that year's covered taxes accrued as the CE's current tax expense in its financial accounts, adjusted by the total deferred tax adjustment amount and other adjustments. To align with the OECD GloBE Model Rules and Commentary on the treatment and allocation of covered taxes, the proposed Bill introduces a framework for allocating deferred taxes when calculating adjusted covered taxes for each CE. More specifically, it prescribes how deferred tax embedded in covered taxes accrued in the financial accounts of head offices or CE-owners are to be allocated to the relevant CEs. The allocation applies to deferred taxes attributable to permanent establishments (PE), hybrid and reverse-hybrid entities and controlled foreign companies (CFCs), while excluding deferred taxes accrued under a blended CFC tax regime.

Under the proposed Bill, the relevant CE may elect one of the following methods which must continue to be applied for five years (a five-year election).

- Method 1: Deferred taxes are allocated to the jurisdictional source of the income that generated the deferred tax. Details of the calculation for the allocation of covered taxes and the allocation cap will be prescribed in the enforcement rules.

- Method 2: Deferred taxes are not allocated but instead eliminated; in that case, amounts are allocated to covered taxes as current tax expenses only when actually paid.

Clarification of the allocation method for the UTPR top-up tax among domestic CEs. Under the Under-Taxed Payments Rule (UTPR), the UTPR top-up tax amount allocated to Korea shall be further allocated among Korean CEs using each relevant domestic CE's UTPR percentage, calculated under the following formula: 50% x [the ultimate parent entity(UPE)'s ownership interest ratio in the relevant domestic CE ÷ (the UPE's total ownership interest ratios in all domestic CEs + 1)] + 50% x [the average value of cash and cash equivalent assets of the relevant domestic CE ÷ the average value of cash and cash equivalent assets of all domestic CEs].

The proposed Bill clarifies the denominator of the ownership-interest-ratio component of the UTPR percentage by reference to the UPE's location. If a UPE is located in Korea, the denominator equals the sum of the UPE's ownership interest ratios in all domestic CEs, plus one. If a UPE is located outside Korea, the denominator equals the sum of the UPE's ownership interest ratios in all domestic CEs.

Extension of the application period for the transitional safe harbours. Under the transitional safe harbour rules, the top-up tax computed under the GloBE rules during the transition period (covering fiscal years commencing before December 31, 2026 and ending before June 30, 2028) may be deemed to be zero if at least one of the prescribed tests is met. The Bill proposes extending the application period to fiscal years beginning on or before December 31, 2027, and ending before June 30, 2029 (a one-year extension from the prior transition period). The Bill further stipulates that the transitional UTPR safe harbour rule will apply to fiscal years beginning on or before December 31, 2025, and ending before December 30, 2026.

Proposed introduction regarding the domestic minimum top up tax regime in Korea

In an effort to secure taxation rights over domestic low-taxed entities under the global minimum tax system, the domestic minimum top-up tax (DMTT) has been introduced as part of its domestic pillar two rules under the LCITA, effective from fiscal years beginning on or after January 1, 2026. The proposed Bill includes the following details, among others, for the purpose of calculating the DMTT.

Calculation of adjusted covered taxes for the DMTT. Under the amended LCITA, the calculation of adjusted covered taxes for the DMTT follows, by reference, the computation rules under the Global Minimum Tax (GloBE) regime. However, certain portions of covered taxes that, under the GloBE regime, may be allocated to domestic constituent entities (CEs) from overseas CEs are excluded from the DMTT calculation. The proposed items to be excluded from the calculation of adjusted covered taxes for the DMTT include the following:

- The portion of covered taxes accrued in the financial accounts of a foreign head office that is attributable to income of its permanent establishment located in Korea
- Among the covered taxes accrued in the financial accounts of CE-owners located outside Korea, the portion of covered taxes related to the following income:
  a. Income of a domestic CE that is a hybrid entity
  b. Dividend income received from a domestic CE, except that any withholding tax withheld by the domestic

CE on such dividend income may be included in the domestic CE’s covered taxes

c. Income of a domestic CE that is a controlled foreign company (CFC)

The Bill further stipulates that the domestic CE may elect, for DMTT purposes, to allocate covered taxes accrued in its financial accounts that relate to the income of CFC, etc. Specifically, for passive income (e.g., interest, dividends, etc.), the entire amount of the related covered taxes may be excluded from the calculation of adjusted covered taxes of the domestic CE for DMTT purposes without any separate allocation-cap calculation.

Allocation method among domestic constituent entities for the DMTT. Where domestic CEs in the MNE group are subject to tax below the minimum rate of 15% in Korea, the DMTT top-up tax amount will be computed with respect to the domestic CEs and then allocated to each domestic CE for DMTT purposes. The DMTT amount allocated to each domestic CE is determined in accordance with either of the following methods, at the election of the CEs: (i) statutory allocation (principal method) and (ii) designated allocation (optional method).

The proposed Bill stipulates that, under (i) statutory allocation, the DMTT amount is allocated based on each domestic CE’s GloBE income, as follows.

DMTT of a domestic CE = MNE group’s total DMTT for the fiscal year
x (GloBE income of the domestic CE ÷ Aggregate GloBE income of all domestic CEs)

Where there is no net GloBE income but the DMTT arises due to Additional Current Top-up Tax, the DMTT amount is allocated as follows.

1) If the additional current top-up tax arises from a recalculation of a prior fiscal year’s effective tax rate and DMTT, the allocation is based on each domestic CE’s income for the relevant prior year;
2) If adjusted covered taxes are negative and less than the expected adjusted covered tax amount (computed as 15% of the GloBE losses) such that the difference is treated as additional current top-up tax, the allocation is made in proportion to the difference computed for each domestic CE.

Filing and payment of DMTT. Under the amended LCITA, a domestic CE which is liable to pay the DMTT tax must file a DMTT return and pay the DMTT by the statutory due date, subject to the same filing and payment provisions for the top-up tax payable under the GloBE rules. The proposed Bill would require the relevant domestic CE to submit the DMTT return together with either (i) a DMTT calculation statement, in the case of statutory allocation, or (ii) a DMTT allocation designation form and a written agreement evidencing the designation among the domestic CEs, in the case of designated allocation. Payment of the DMTT may be made to the competent tax office, the Bank of Korea, or a post office.

Customs Act

Introduction of a self-issuance procedure for certificates

In order to enhance convenience for exporters, the proposed Bill introduces a new procedure allowing eligible parties to self-issue certain certificates used in customs duty drawback processes such as Average Duty Certificate, Import Duty Split Certificate and the Basic Raw Materials Tax Payment Certificate. Currently, these certificates are issued by the head of the customs office upon application and review. Under the proposed Bill, however, applicants such as raw material importers and certified customs attorneys may apply to the head of customs office for designation as self-issuers by entering the requisite information into the Korea Customs Service electronic processing system. Once designated, the status is valid for three years. The self-issuance procedure applies to applications filed on or after July 1, 2026.

Shortening the restriction period for changing between application and non-application of the flat-rate refund schedule

Where SMEs' export goods, or goods traded under a domestic letter of credit, etc., are listed in the flat-rate refund schedule, a refund may be granted, or a Certificate of Tax Payment for Basic Raw Materials may be issued, in accordance with the simplified flat-rate refund schedule in effect on the date the goods are supplied for export, etc., or the date on which the goods are traded under a domestic letter of credit, etc. However, this does not apply if approval has been obtained to opt out of the flat-rate refund schedule. Currently, if a person that has obtained opt-out approval seeks to reapply the flat-rate refund schedule, or if a person that has obtained approval to apply the flat-rate refund schedule seeks approval to opt out again, no such application may be permitted within two years from the date on which the relevant approval was obtained. Under the proposed Bill, the two-year restriction period on request for opt-out approval would be removed, and an application to reapply the flat-rate refund schedule could be made within one year from the date of opt-out approval, shortened from the previous two-year period.

Contacts

Corporate Tax

Michael Kim
+82-2-709-0707
michael.kim@pwc.com

Yun-Jung Yang
+82-2-3781-9278
yunjung.yang@pwc.com

Il-Gyu Cha
+82-2-3781-3173
il-gyu.cha@pwc.com

Chang-Ho Jo
+82-2-3781-3264
changho.jo@pwc.com

Young-Ok Kim
+82-2-709-7902
young-ok.kim@pwc.com

Robert Browell
+82-2-709-8896
robert.browell@pwc.com

Baek-Young Seo
+82-2-709-0905
baek-young.seo@pwc.com

Kyu-Young Han
+82-2-3781-3105
kyu-young.han@pwc.com

Jeong-Eun You
+82-2-709-8911
jeong-eun.you@pwc.com

Seung-Ryul Lee
+82-2-3781-2335
seung-ryul.lee@pwc.com

Ji-Young Yoon
+82-2-3781-9958
jiyoung.yoon@pwc.com

Hyun-Kyu Park
+82-2-3781-2301
hyun-kyu.park@pwc.com8

Kyoung-Soon Lee
+82-2-3781-9982
kyoungsoon.lee@pwc.com

Transfer Pricing

Won-Yeob Chon
+82-2-3781-2599
won-yeob.chon@pwc.com

Young-Joo Kim
+82-2-709-4098
young-joo.kim@pwc.com

삼일회계법인

samil.com