



Korean Tax Update Samil Commentary

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Tax News

Government's Tax Reform Proposals for 2024 Approved by the National Assembly

On December 10, 2024, the National Assembly approved the government's bill, with some modifications, to amend 13 tax laws, including the Corporate Income Tax Law and the Individual Income Tax Law. Below is a summary of key modifications to the proposed changes within the bill.

Special Tax Treatment Control Law

- 1) The proposed tax incentives aimed at enhancing shareholder returns, including corporate income tax credits for those exceeding their average shareholder returns and separate taxation of dividends received by individual shareholders from companies enhancing shareholder returns, have been canceled.
- 2) The proposed expansion of tax incentives for Individual Savings Accounts (ISA), including a new type of ISA for investments in domestic shares or exchange-traded funds, has been revoked. The maximum deposit limit remains at KRW 20 million per year (with a total deposit limit of KRW 100 million), and a non-taxable deposit continues to be capped at KRW 2 million per annum (KRW 4 million for low-income or agriculture and fishery income categories).
- 3) The proposed changes to the integrated employment-related tax credit schemes have been withdrawn, maintaining the current benefits. Small and midsize enterprises (SMEs) and mid-scale companies will continue to enjoy tax credits for net increases in full-time employment over a three-year period. Large corporations will benefit from these credits for up to two years. However, if a company reduces its number of full-time employees within two years from the end of the fiscal year in which the credit is claimed, the credited amount may be recaptured.
- 4) The proposed expansion of qualifying scope for tax credits available to those who are rehired after a certain period of time has been withdrawn. Presently, this tax credit is specifically available for the rehiring of female employees who return to the workforce after leaving the company due to specific events, including marriage, pregnancy, childbirth, childcare, and child education.
- 5) The proposed reduction in tax credits for the electronic filing of tax returns has been revoked. The tax credit amount remains at KRW 20,000 per case of filing corporate income tax, capital gains tax, or comprehensive individual income tax returns, and KRW 10,000 per case of filing value-added tax returns, with a maximum of KRW 3 million per tax accountant and KRW 7.5 million per tax accounting firm.
- 6) The proposed expansion in the scope of subsidiaries eligible for investment tax credits for overseas natural resources exploration projects has been revoked. Currently, only wholly-owned subsidiaries of domestic corporations or individuals are entitled to the investment tax credit for overseas resources exploration projects including the acquisition of mining rights.

Value Added Tax Law

The proposal to reduce the tax credit for credit card usage has been withdrawn. For certain individual business operators with annual sales of KRW 1 billion or less in the previous year, the tax credit rate of 1.3% (1.0% starting from 2027) of amounts issued or paid on credit card sales slips and other prescribed documents will continue to apply, with an annual deduction limit of KRW 10 million (KRW 5 million starting from 2027).

Inheritance and Gift Tax Law

The government's proposed bill to amend the Inheritance and Gift Tax Law was rejected, so there are no amendments to this Law and the current regulations will continue to apply. The rejected proposals include:

- 1) A decrease in the highest inheritance and gift tax rate to 40% (from 50% for tax bases over KRW 3 billion) and an increase in the lowest tax base bracket to which the 10% tax rate applies to KRW 200 million (from the current KRW 100 million).
- 2) An increase in child tax credits for inheritance tax to KRW 500 million per child (from the current KRW 50 million per child).
- 3) An increase in the family business deduction for companies enhancing shareholder returns, scaling up, or incorporating in or relocating to special opportunity development zones.
- 4) The elimination of the existing premium in valuation of shares owned by the largest shareholder.

Additional Tax Measures Proposed to Strengthen the Semiconductor Ecosystem

In a move to bolster the nation's semiconductor industry amidst global uncertainties, the government has proposed an additional set of support measures spanning the fiscal, tax, finance, and infrastructure sectors. These proposals aim to enhance the competitiveness of the country's semiconductor ecosystem, particularly in response to increased uncertainty due to China's pursuit of semiconductors and potential policy shifts under the new U.S. administration led by President-elect Trump. Proposed key tax measures include:

Enhanced Tax Credits for Investments in National Strategic Technologies

- Higher rates of investment tax credits (ranging from 15% to 25%) will be extended to investments in research and development (R&D) equipment and facilities for national strategic technologies. Currently, higher rates of investment tax credits are focused on facilities aimed at commercializing such technologies, while the investment tax credits for R&D equipment and facilities are subject to the lower rates of tax credits for general facilities investments. These rates are 1% for large, 5% for middle-scale, and 10% for small and midsize companies.
- Starting from 2025, an additional tax credit of 10% will be permanently applied to incremental investment expenditures (i.e., investment amounts exceeding the previous three-year average) for national strategic technologies, as contained in the government's tax reform proposals for 2024.

Quota Tariffs on Essential Raw Materials

To further support the semiconductor manufacturing sector, the government has proposed the application of quota tariffs, effective from 2025, on essential imported raw materials. Key materials affected and tariff rates include: quartz glass panels (3%); copper foil and glass fiber for copper clad laminate (8%); and tin ingot (8%).

NTS Expands the Scope of Real Estate subject to Appraisal for Inheritance and Gift Tax Purposes

The National Tax Service (NTS) has observed instances where the officially announced standard prices of certain ultra-high-end apartments and luxury residential houses are less than half of their actual transaction prices primarily due to the recent increase in transaction prices of residential real estate. To address this discrepancy and ensure that inheritance and gift taxes are imposed based on the actual value, the NTS will include residential properties reported at a significantly lower price than the market value in the scope of properties subject to appraisal for inheritance and gift tax purposes. Currently, the appraisal is required if the reported value of a property is at least KRW 1 billion lower than the estimated market value determined by the NTS. This criteria for appraisal will be relaxed from the current KRW 1 billion to KRW 500 million, expanding the scope of real properties subject to the appraisal. The revised criteria will apply to real properties for which the statutory deadline for inheritance and gift tax determination occurs on or after January 1, 2025. The NTS will send an individual notice containing the appraisal methods and procedures if the property is selected for appraisal.

Six Additional Cities and Provinces Are Designated as Special Opportunity Development Zones

Six additional cities and provinces, such as Ulsan, Sejong and Gwangju, have been designated as special opportunity development zones. This followed the initial designation of eight major cities and provinces in June 2024, including *Daegu*, *Busan*, *Jeonnam*, *Gyeongbuk*, *Jeonbuk*, *Gyeongnam*, *Daejeon* and *Jeju*. The government anticipates over 150 corporations will invest KRW 33.8 trillion in the additional zones. With the additional designation, all 14 regional cities and provinces located outside designated metropolitan areas across the country have special opportunity development zones. The total investment in these regional areas is estimated to be KRW 74.3 trillion according to the data compiled by the government.

Special opportunity development zones are the government's initiative to promote large-scale investment in regional areas by providing fiscal and tax support as well as enhanced settlement and living conditions. Companies starting businesses or establishing new business places in these zones will receive corporate or individual income tax exemptions and reductions. Additionally, there are other tax incentives available, such as acquisition and property tax exemptions and reductions for the incorporation, relocation, or establishment of new or additional factories in these zones. Companies relocating their business places to these zones will also benefit from deferred taxation of capital gains arising from the disposal of assets as part of the relocation. Furthermore, companies headquartered in these zones will also benefit from eased requirements for the recapture of tax deductions for family business succession claimed.

Additional Special Opportunity Development Zones

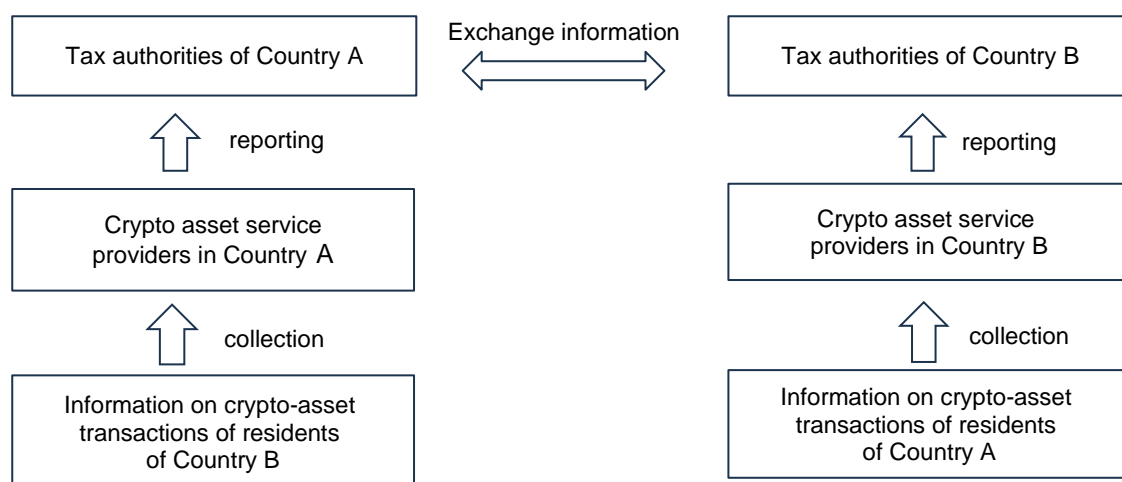
City/Province	Location	Eligible sector
Ulsan	Nam-gu, Buk-gu, Ulju-gun	Electric vehicles, secondary batteries, petrochemicals, LNG etc.
Sejong	Jiphyeon-dong, Yeonsu-myeon, Jeondong-myeon	Information and communication technology (ICT)/software, robots, pharmaceuticals, auto parts, etc.
Gwangju	Gwangsan-gu, Buk-gu	Auto parts, AI data center, etc
Chungnam	Yesan, Boryeong, Seosan, Nonsan, Buyeo	Bio-pharmaceuticals, hydrogen, food, petrochemical, defense, etc.
Chungbuk	Jecheon, Boeun, Eumseong, Jincheon	Food, auto parts, semiconductors, secondary batteries, etc.
Gangwon	Hongcheon, Wonju, Gangneung, Donghae, Samcheok, Yeongwol	Pharmaceuticals, battery modules, hydrogen, minerals, etc.

Government Seeking to Improve the Project Financing System with Deferred Taxation of Capital Gains for In-Kind Contributions of Land

The government has announced a plan to enhance the real estate project financing (PF) system, based on extensive research and feedback from experts and industry stakeholders. One of the key points of this improvement plan is a proposed amendment to the Special Tax Treatment Control Law, which aims to allow the deferred taxation of capital gains arising from the in-kind contribution of land or other assets by landowners in real estate PF projects. The proposed amendment is intended to encourage landowners to participate as shareholders in real estate PF projects by contributing land and buildings as in-kind investments. This approach is intended to reduce the reliance on high-interest financing for land purchases. By doing so, the proposed improvement is expected to enhance the capital adequacy ratio of real estate PF, reduce the need for high-interest loans, and lower overall project costs. Ultimately, these changes should lead to lower pre-sale prices and improved real estate project stability.

Korea Signs the Multilateral Competent Authority Agreement on the Automatic Exchange of Information on Crypto Asset Transactions

The government officially signed on November 26, 2024, the Multilateral Competent Authority Agreement on the Automatic Exchange of Information pursuant to the Crypto-Asset Reporting Framework. The 48 signatories of this agreement, including Korea, Germany, Japan, and France, will automatically exchange information annually regarding crypto-asset transactions of their residents with relevant signatories under this automatic exchange agreement. With this agreement, it is expected that tax authorities will be better equipped to track offshore tax evasion related to crypto-asset transactions by securing information on domestic residents' crypto-asset transaction details through crypto-asset service providers located in other signatory countries. The Ministry of Economy and Finance plans to enact or amend relevant domestic legislation and pursue individual agreements with each of other signatory countries starting from 2027.



MOEF Changes its Authoritative Interpretation on the Capital Gains Tax Calculation in Certain Transactions Where the Buyer Bears the Seller's Capital Gains Tax

The Ministry of Economy and Finance (MOEF) has revised its authoritative interpretation on the calculation method of capital gains tax in transactions where the buyer agrees to assume the seller's capital gains tax liability, known as 'hand-held premium transactions'. The revised interpretation will apply to transfers made on or after November 7, 2024. For example, in the case where an apartment pre-sale right is acquired for KRW 1.2 billion before completion, held for one year or more, and then sold for KRW 1.7 billion, if the buyer agrees to bear all the taxes arising from the transaction, the revised interpretation could result in an increase of approximately KRW 420 million in the capital gains tax liability compared to the previous interpretation. As per the previous interpretation (MOEF Tax Policy Division-2516, December 27, 2023), only the initial portion of the capital gains tax paid by the buyer was included in the transfer price for capital gains tax recalculation purposes. However, the revised interpretation (MOEF Tax Policy Division-2048, November 7, 2024) requires that the entire capital gains tax liability borne by the buyer be added to the transfer price for recalculation.

NTS Investigation Targets Business Owners Suspected of Tax Evasion

The NTS has launched investigations into 37 entrepreneurs suspected of tax evasion. These entrepreneurs are alleged to have gained undue benefits and avoided taxes by exploiting company assets and undisclosed corporate information. The investigation focuses on business owners who have been alleged to engage in unfair profit-taking activities, particularly in sectors closely connected to various online platforms and franchises that serve the public and low-income families. The main cases uncovered include:

Misappropriation of Company Funds

- Business owners have been found using corporate funds to acquire assets for private use by

their families.

- Corporate funds have also been used to cover the extravagant living expenses of the owners' families.

Unfair Transactions with Affiliated Companies

- Unfair support by channeling lucrative business opportunities and high-profit work to affiliates run by the owners' children.
- Company profits have unduly outflowed through intercompany transactions that lack economic rationale.

Exploitation of Undisclosed Corporate Information

- The owners' children have gained undue profits by using undisclosed information about a company's initial public offering.
- Undisclosed information on business management has been used for exclusive profiteering.

Changes in Tax Laws

Amended Enforcement Rules of the Special Tax Treatment Control Law

Background of Amendment and Key Points

Under the Special Tax Treatment Control Law (STTCL), certain qualifying housing subscription savings accounts for housing purchases may be granted tax benefits on income from these saving accounts. However, such tax benefits may no longer apply if the account is closed, unless the closure falls under one of the special reasons for the closure prescribed. Recently, the Presidential Decree of the STTCL has been amended to protect the rights of the account holders by expanding the special reasons for the closure of housing subscription saving accounts. In line with this amendment to the Presidential Decree of the STTCL, the Enforcement Rules of the STTCL have also been amended to specify the additional special reasons for the closure of general housing subscription accounts or housing subscription accounts for youths, and to realign the related forms, thereby setting forth matters as delegated by the Presidential Decree and required for the relevant enforcement. The additional special reasons include the case where an account holder cannot move into a new house due to the bankruptcy of the construction company or because the approval for subscriber recruitment is cancelled in accordance with the Rules on Housing Supply. In such a case, the individual may opt to continue to place money in the previous long-term savings account for housing subscription or housing subscription account for youths within one year from the notification regarding inability to move in. (MOEF Ordinance No.1088, December 15, 2024)

Rulings Update

Whether the gift of shares in a holding company acquired through a contribution in kind constitutes a disposition of shares that triggers the recapture of tax deferral

Where a Korean shareholder (a corporation or an individual) of a domestic company contributes shares in-kind to establish a domestic holding company or convert an existing domestic company into a holding company, capital gains tax arising from the in-kind contribution can be deferred until the shareholder “disposes” of the shares in the holding company acquired through the in-kind contribution if certain requirements are met under Article 38-2(1) of the Special Tax Treatment Control Law (STTCL) (referred to here as the ‘provision in question’). The main issue in this court case is whether the gift of shares in a holding company acquired through an in-kind contribution by a shareholder constitutes a “disposition” of the shares, which would terminate the tax deferral and result in the imposition of capital gains tax.

The lower court ruled that the gifting of shares constitutes a “disposition” of shares that terminates the tax deferral. The court's reasoning mainly includes the following points: i) it would be reasonable to interpret that the term 'disposition' in the provision in question includes not only transfers for considerations but also transfers without consideration; ii) the Ministry of Strategy and Finance (MOEF), when amending the provision in question on December 27, 2010 to delete the requirements for post-management in cases of gifting or inheriting shares of a holding company, clarified that the reason for the deletion was that gifting or inheriting is included in the term 'disposition'; and iii) there is no longer a reason to grant the special tax deferral intended to support corporate restructuring when the indirect ownership or control over the shares acquired through in-kind contribution ends due to the gifting of shares. The Supreme Court upheld the lower court's decision by dismissing the appeal without a hearing. (*Daebeop2024du50049*, 2024.11.28)

Observation: If a shareholder, who has received the tax deferral on capital gains for an in-kind contribution of shares under the provision in question, gifts the shares in a holding company acquired through the in-kind contribution, it is considered that an event for terminating the tax deferral has occurred, and thus, the shareholder must file and pay capital gains tax on the capital gains initially deferred. It is also important to note that the applicable capital gains tax rate is not the rate at the time of the initial in-kind contribution of the shares, but the rate at the time of disposition, i.e., the time of the gift, as per the recent Supreme Court's ruling.

Whether a start-up SME indirectly invested in by a youth representative through a parent company would qualify as a youth start-up SME

Under Article 6(1)(1) of the STTCL, youth start-up small and midsize enterprises (SMEs) are eligible for significant tax exemptions. Specifically, youth start-up SMEs can receive a 50% exemption from corporate income tax for five years if they are established in designated over-concentration control regions. This exemption rate increases to 100% if established outside such regions. According to Article 5(1)(2) of the Presidential Decree of the STTCL, a youth start-up SME established as a corporation refers to a case where the representative, who is aged 34 or younger at the time of incorporation, is the largest shareholder and the controlling shareholder of the SME. The primary issue in this case is whether Company A can be considered a youth start-up SME if the direct largest shareholder of Company A is Parent Company B (93% ownership), and the representative of Company A, who is under the age of 34, is the direct largest shareholder of Parent Company B (51.7% ownership). The question is whether the representative, who indirectly owns the largest share of Company A through Parent Company B (calculated as 93% x 51.7%), can be considered the largest shareholder and the controlling shareholder of Company A, thereby qualifying Company A as a youth startup SME.

According to an authoritative interpretation issued by the NTS, a representative who does not directly own shares in Company A cannot be considered a controlling shareholder. Consequently, Company A cannot be regarded as a youth start-up SME. This interpretation is based on Article 43(7) of the Presidential Decree of the Corporate Income Tax Law, which defines a 'controlling shareholder, etc.' as a shareholder who holds at least 1% of a corporation's shares and, together with related parties, holds the largest share among the shareholders of the corporation. (*Advance Ruling-2024-beobgyubeobin-0607,2024.9.23.*)

Observation: The interpretation suggests that for a start-up SME to be qualified as a youth start-up SME, a youth representative must directly hold shares in the start-up SME and be the largest individual shareholder. Conversely, if a youth representative does not directly invest in a start-up SME but instead indirectly owns the SME through another entity, such as a parent company, resulting in the largest shareholding, it does not qualify as a youth start-up SME. Caution should be exercised to ensure that tax reductions are not applied in such cases.

Method for determining real estate with a standard market price of KRW 1 billion or less for which a single appraised value can be recognized as the market value

Under the Inheritance and Gift Tax Law (IGTL), in principle, the average value of appraisals from at least two appraisal firms is recognized as the market value of property. However, for real estate with an officially announced standard market price of KRW 1 billion or less, the appraised value from a single appraisal firm can also be recognized as the market value to reduce taxpayer compliance costs (Article 60(5) of the IGTL and Article 49(6) of the Presidential Decree of the IGTL). The issue in a recent authoritative interpretation is whether the inherited collective building, which consists of an officetel, commercial building, and multi-family housing, qualifies as real estate with a

standard market price of KRW 1 billion or less, for which an appraised value from a single appraisal firm can be recognized as the market value. The question is whether this determination should be based on the total standard market price of the entire collective building or on each individually registered unit within the collective building.

The recent authoritative interpretation (*Advance Ruling-2024-Beobgyujaesan-0676, 2024.10.22*) clarifies that whether a collective building qualifies as real estate with a standard market price of KRW 1 billion or less should be determined based on each individually registered unit within the collective building. This interpretation mainly considered the following points: i) for officetels and commercial buildings, the standard market price for each unit is calculated by multiplying the unit price per area by the building area of each unit, as stipulated in regulations (*Section 5(1) of the NTS Notice on the Standard Price of Officetels and Commercial Buildings for 2024*); ii) the price of multi-family housing is principally presented by the price per unit (*Section 12(2) of the Administrative Guidance on the Survey and Assessment of Multi-family Housing Prices*); and iii) appraisals are generally conducted on an individual property basis, adhering to the principles and standards of individual property-based appraisals (*Section 7(1) of the Principles and Standards for Conducting Appraisals*).

Observation: This recent interpretation aligns with previous interpretations (*Advance Ruling-2023-Beobgyujaesan-0004, 2023.1.19. etc.*) which determined whether inherited multi-family housing qualifies as real estate with a standard market price of KRW 1 billion or less based on the standard market price of each unit, rather than the total standard market price of the entire multi-family housing. Therefore, for a collective building consisting of officetels, commercial buildings, and multi-family housing, the determination should also be based on each individually registered unit within the collective building, rather than the total standard market price of the entire collective building. Consequently, even if the total standard market price of the entire collective building or the entire multi-family housing exceeds KRW 1 billion, if the standard market price of each unit is KRW 1 billion or less, the appraised value from a single appraisal firm can be recognized as the market value based on the assessment from a single appraisal corporation according to the authoritative interpretation.

The content is for general information intended to facilitate understanding of recent court cases and authoritative interpretations. It cannot be used as a substitute for specific advice and you should consult with a tax specialist for specific case.

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