



Korean Tax Update Samil Commentary

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삼일회계법인

Tax News

National Tax Administration Policy Plan for 2025

In the latest meeting of chiefs of the national tax offices, the National Tax Service (NTS) announced the national tax administration policy plan for 2025, including several measures aimed at enhancing the effectiveness of tax audits. The main contents related to tax audits are as follows:

Disclosure of Selection Criteria: The criteria and types of targets selected for periodic tax audits will be disclosed on the NTS website.

Prevention of Abuse of Examination Authority: Continuous monitoring will be implemented to prevent potential abuse of examination authority. This includes replacing investigation teams involved in alleged illegal or unfair practices and strengthening measures to prevent conflicts of interest.

Steady Trend in NTS Audits: Considering internal and external economic conditions, the number of NTS audits will be maintained at levels similar to previous years, with flexible management based on available audit resources. Audit case numbers by year are: 14,454 in 2021; 14,174 in 2022; 13,973 in 2023; and 14,000 in 2024 (projected)

Improvement of Audit Management: While reducing less effective audit management practices, such as random selection of individuals, non-periodic audits will be actively conducted on cases with clear evidence of tax evasion attempts to enhance the effectiveness of investigations.

Reinforcing Measures for Sanctions: Efforts will continue to establish a legal basis for imposing enforcement fines on multinational companies and others that refuse or delay the submission of information and documents requested by the tax authorities without justifiable reasons.

Refinement of Audit Target Selection: The accuracy of selecting periodic audit targets will be improved through machine learning on big data, including previous tax audit cases and filed data. This approach will be applied to periodic audits for corporate income tax returns filed for the 2024 year and extended to investigations of individual income tax returns filed for the 2025 year. The fairness and objectivity in the selection of non-periodic tax audit targets are expected to be significantly enhanced with the introduction of an AI-assisted tax evasion detection system.

Enhancement of Information Infrastructure: The capability to collect overseas financial information will be strengthened by seeking to conclude memorandums of understanding (MOUs) with foreign countries with which Korea has yet to agree on the automatic exchange of financial information.

Strict Crackdown on Unjust Profit-Taking: Persistent investigations will target chronic tax evasion attempts involving unjust profit-taking through illegal multi-level marketing and unfair franchising practices, which significantly impact the livelihoods of low-income households.

Rooting Out Unfair Practices: Investigations will aim at practices that undermine fair competition through undue privileges, such as unfair transactions between related parties or shareholders, and unfair mergers, to ensure market order is retained and restored.

Tackling New Types of Tax Evasion: Measures will be taken to strengthen the verification of increasingly sophisticated attempts to evade taxes, such as hiding profits from overseas initial coin offerings and the concealment of virtual assets received in return for exports.

Strengthening of Delinquent Tax Tracking: Measures will be taken to uncover hidden assets through various means, such as safe deposit boxes in bank vaults, and to conduct intensive on-site investigations. This will be supported by efficient inter-government collaboration to collect taxes.

Government Announces Economic Policy Plans for 2025

In the latest meeting of economic ministers, the government unveiled its economic policy for 2025, which includes a comprehensive range of measures aimed at boosting economic performance. Below is a summary of the tax-related measures outlined in the policy.

Measures to Increase Individual Spending:

- An additional 20% income deduction will be allowed for increased spending during the first half of 2025, capped at KRW1 million. This deduction will apply to an increase of 5% or more in individual spending compared to the previous year.
- A 30% reduction in individual consumption tax (from 5% to 3.5%) will apply to motor vehicles released from plants between January 3 and June 30, 2025, capped at KRW 1 million. For those replacing old cars, the reduction rate will rise to 70%, also capped at KRW 1 million.
- Tax reforms related to employment will be pursued, including providing incentives for companies to increase wages. These tax reforms will be developed following an in-depth evaluation of the existing integrated employment tax credit system, which is scheduled to sunset at the end of 2025.

Measures for the Advancement of the Capital Market

- A package of measures to incentivize companies to enhance shareholder returns and promote investment in Individual Savings Accounts (ISA).
 - A 5% tax credit for the incremental amount exceeding the average shareholder returns by 5% compared to the previous three years.
 - Separate taxation at a low rate on increases in dividends compared to the previous three years.
 - A higher limit of investment in ISA and non-taxable ISA savings.
 - Creation of a new type of ISA that invests only in listed shares on the Korean stock market and investment funds comprising only domestic shares.

Measures to Improve the Corporate Investment Environment:

- Permanent increase in the credit rate for incremental investment and a temporary investment tax credit for facility investment by small and medium-sized enterprises (SMEs) and middle-scale companies in 2025. The tax credit rates will be 12% (14% for new growth and source technologies) for SMEs, up from 10% (or 12%), and 7% (8% for new growth and source technologies) for middle-scale companies, up from 5% (or 6%).
- Temporary application of accelerated depreciation to facility investment by SMEs in 2025.
- Inclusion of artificial intelligence (AI) and future transportation means in the scope of national strategic industry technologies
- Increased investment tax credit for high-tech R&D facilities, such as the application of a uniform investment tax credit rate to R&D facility investment in both national strategic technology and new growth technology commercialization facility investment.
 - Expansion of the scope eligible for the existing R&D tax credit applicable to national strategic industry technologies to include software lease and purchase costs, and expenditure incurred to use or lease research and test facilities.
 - The tax credit will be limited to research time spent on national strategic technology in cases where personnel conduct both national strategic technology and general R&D.

Innovation in Key Industries

- Support for the enactment of a special law for the development of semiconductors and a 5% increase in the investment tax credit rate applied to national strategic technologies for semiconductor companies.

Measures to Accelerate the Recovery of the Regional Economy and the Construction Sector

- Public rental housing units owned by the state-run Korea Land & Housing Corporation (LH) and its affiliates across the country will be excluded from the tax base in calculating the comprehensive real estate tax, regardless of their value and area.
- One-year extension (until May 2026) of the temporary exclusion from a higher tax rate applied to capital gains derived by multi-homeowners.

- A higher threshold of housing unit prices (officially announced standard prices) for exclusion from comprehensive real estate tax base for private rental housing (10-year lease) with 30 or more units constructed or purchased.
 - For constructed units: from KRW900 million to KRW1.2 billion
 - For purchased units: from KRW600 million (KRW300 million in non-metropolitan areas) to KRW900 million (KRW600 million won in non-metropolitan areas).
- Exclusion of equity accumulation type housing units for sale* (outlined in the Special Act on Public Housing) from the additional corporate income tax. (*Equity accumulation type housing unit for sale refers to a public housing unit for sale directly constructed or acquired by a public housing project operator and supplied to a person who pays 10% - 25% of the sale price upon moving in and acquires the remaining shares over 20-30 years from the public housing project operator.)

Measures to Expand the Core Infrastructure

- A 50% reduction in individual income tax for qualifying overseas science and engineering talents for ten years under the government's K-Tech Pass program
- Measures aimed at alleviating income tax or gift tax burden on foreign-source income earned by foreign individuals residing in Korea.

Rulings Update

Whether the R&D tax credit applies to contract R&D expenses for next-generation computer system

The Special Tax Treatment Control Law (STTCL) stipulates that, for the application of the R&D tax credit provision (Article 10 of the STTCL), eligible research and development (R&D) activities are defined as "activities aimed at achieving scientific or technological advancements and activities aimed at developing new services and service delivery systems" under Article 9(5) of the former STTCL (effective prior to the amendment on December 31, 2019) and Article 2(1)(11) of the STTCL. The issue in this case is whether the development of a next-generation computer system ('the computer in question') by a company engaged in the financial and insurance business, which was outsourced to a contractor for the development of products, services, and customer service, would qualify as 'activities aimed at achieving scientific or technological advancement' under the R&D tax credit provision.

In this regard, the lower court judged that there was technological advancement due to the computer system in question. However, the Supreme Court decided that the R&D tax credit cannot be applied to the contract R&D expenses for the computer system in question. The main grounds for the Supreme Court's decision include: i) to qualify as scientific or technological activities, the activity must systematically resolve scientific or technological uncertainties; ii) in the case of outsourced contract R&D, there must be uncertainty in the outcomes from the perspective of both the company and the contractor in order to be recognized as eligible R&D activities; and iii) the outsourced development of the computer system in question cannot be considered activities aimed at systematically resolving scientific or technological uncertainties to achieve the advancements in the field of science and technology. Therefore, the Supreme Court reversed and remanded the case to the lower court. (*Daebeop2021du55203*, 2024.12.24)

Observation: This court ruling underscores that the definition of eligible R&D under the STTCL has been aligned with international standards, specifically the concept of R&D as outlined in the OECD's Frascati Manual, which provides guidelines for collecting and reporting data on research and experimental development. The ruling also states that to qualify as eligible R&D, there must be inherent uncertainty in the outcomes, including the risk of trial and error or failure. Recently, the STTCL has been amended (Article 2(1)(11), effective December 31, 2024) to include 'systematic and creative activities' in the definition of R&D, thereby clarifying the concept of 'systematic' and 'creative' activities as proposed in the OECD Frascati Manual as part of the definition of eligible R&D. Therefore, when applying the R&D tax credit and other related benefits, it is necessary to refer to this Supreme Court ruling, the latest amendments to the scope of eligible R&D under the STTCL, and the concept of R&D as presented in the OECD's Frascati Manual in determining whether the company's R&D activities qualify as eligible R&D expenses.

Whether contributions made to a joint labor welfare fund in a mid-term participation format are treated as deductible expenses

Article 19(22) of the Presidential Decree of the Corporate Income Tax Law (CITL) stipulates that the contributions made by a domestic corporation to a joint labor welfare fund, “jointly established” with another domestic corporation, are treated as deductible expenses as specified in Article 19(22)(b) of the Presidential Decree of the CITL (newly enacted on February 12, 2021, ‘provision in question’). Article 86-7 of the Framework Act on Labor Welfare (newly enacted on December 8, 2020) has already provided a legal basis for the mid-term participation of employers who did not participate at the time of the establishment of an already established and operating joint labor welfare fund. However, there is no explicit provision allowing the contributions made to a joint labor welfare fund in a mid-term participation format as deductible expenses under the CITL. Therefore, the issue in this case is whether the contribution made to a joint labor welfare fund in a mid-term participation format can be treated as deductible expenses.

In this regard, a recent advanced tax ruling responds that there is a deduction allowed for contributions made by a domestic corporation in a mid-term participation format to an already established welfare fund, even if the corporation did not participate at the time of the fund’s establishment. This interpretation is considered reasonable as it aligns with the purpose of the provision in question, which aims to support the smooth operation of corporate employee welfare projects, and the intent of the amendment to the Framework Act, which seeks to encourage the mid-term participation by employers who hesitate due to the lack of legal basis. (*Advance Ruling-2024-Beobgyubeobin-0452, 2024.8.6*)

Observation: It is necessary to be cautious not to omit the deduction of contributions made by a domestic corporation in a mid-term participation format to a joint labor welfare fund that the corporation did not participate in at the time of establishment, as well as contributions made to a joint labor welfare fund jointly established with another domestic corporation. Similarly, the Individual Income Tax Law also stipulates that contributions made by a sole proprietor to a joint labor welfare fund are treated as deductible expenses. Therefore, it is deemed that, according to this interpretation, contributions made by sole proprietors in a mid-term participation format to a joint labor welfare fund can also be deductible from their business income.

Whether the salary paid to an employee in the month of retirement is included in the total salaries in applying the SME social security tax credit

According to Article 30-4 of the STTCL, a small and medium-sized enterprise (SME) can be eligible for a social security tax credit for its social security contributions for the increased number of regular employees. In this context, the amount of the social security contributions for the increased number of employees is calculated by multiplying the total salaries paid to regular employees in the relevant tax year by the social security contribution rate, divided by the number of regular employees in the relevant tax year. The number of regular employees is calculated by dividing the sum of the number of regular employees at the end of each month during the relevant tax year by the number of months in the tax year, as specified in Article 27-4(6)(1)(8) and (9) of the Presidential Decree of the STTCL. The issue in this authoritative interpretation is whether the salaries paid to employees who retired during the month should be included in the total salaries paid to regular employees when calculating the amount of social security contributions borne by the employer.

The recent authoritative interpretation clarifies that the salary paid to an employee who retires during the month should be excluded from the total salaries paid to regular employees when calculating the amount of social security contributions borne by the employer. This interpretation appears to consider that the amount of social security contributions is calculated by dividing the total salaries paid to regular employees by the number of regular employees, and an employee who retires during the month is excluded from the calculation of the number of regular employees for the month of retirement according to the relevant provision, and the total salaries refer to the total salaries paid to regular employees. Therefore, it is reasonable to interpret that the salary for the month of retirement of an employee who retires during the month, which is excluded from the number of regular employees for the month of retirement, should also be excluded from the calculation of the total salaries. (*Seomyeon-2024-Beobin-0694.2024.10.14*)

Observation: When applying the social security tax credit for SMEs, in the case of an SME with an employee who retires during the month in the relevant tax year, the employee who retires during the month should be excluded from the number of regular employees for the month of retirement, and the salary paid in the month of retirement should also be excluded from the total salaries. Consequently, care should be taken not to overestimate the amount of the social security tax credit for SMEs by only excluding the employee who retires during the month from the number of regular employees for the month of retirement while including the salary paid to the employee who retires during the month in the total salaries.

Method of applying the deduction limit when claiming the deduction in one selected tax year for investments made over two or more tax years

Under the STTCL, an individual resident can deduct 10% of the investment amount contributed to a venture investment association or prescribed venture companies, etc. (or 30% to 100% for qualifying investments in certain venture companies) from the resident's global income for the tax year in which the investment date falls, to the extent of a deduction limit of 50% of the resident's global income for the "relevant tax year." In addition, if a resident applies for a change in the deduction period by selecting one tax year from the tax year in which the investment date falls to the tax year in which the second anniversary of such investment date falls, the resident can take the deduction for the selected tax year as specified in Article 16(1) of the STTCL.

This case concerns a situation where a resident invests in a venture company over two or more tax years and applies for a deduction in one selected tax year. In determining the 50% deduction limit, the term "relevant tax year" should be interpreted as the "tax year in which the investment date falls," thereby calculating the deduction limit for each tax year in which each investment was made, or as the "tax year in which the deduction is applied," thereby calculating the deduction limit for one selected tax year in which the deduction is applied. .

The Board of Audit and Inspection (BAI) decided that it would be reasonable to apply the 50% deduction limit on the total amount of the investments for one selected tax year in which the deduction is applied. This decision aligns with the precedent Supreme Court ruling that the "relevant tax year" in the deduction limit provision refers to the "tax year when the deduction is applied." (*Gamsim-2023-360, 2024.10.17*)

Observation: When an individual resident invests in a venture company over two or more tax years and chooses to apply the total amount of the investment as a deduction for one selected tax year, it is important to note that the deduction limit should be applied based on the global income of the tax year in which the deduction is applied, rather than the global income of each tax year in which the investment date falls. Regarding the timing of deduction for investments in venture companies, whether a resident can choose one tax year for deduction per resident or per investment entity, an authoritative interpretation allows the resident to choose the deduction timing for each investment separately if the resident has invested in different investment entities, such as SME-startup venture investment associations and venture companies, within the same tax year (*Seomyeon-2016-Beobryeonghaeseok sodeuk-2842. 2016.11.1*). It should be noted that a resident who has invested in multiple investment entities within the same tax year can choose different tax years for applying the deduction for each investment entity.

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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