



Korean Tax Update Samil Commentary

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삼일회계법인

Tax News

Amendments to Seven Tax Laws, including Increased Tax Credit Rates for Semiconductor Facility Investments

On March 14, 2025, the government promulgated amendments to seven tax laws, including the amended Special Tax Treatment Control Law to increase the tax credit rates for investments in semiconductor national strategic technologies. Below is a summary of the key amendments to these seven tax laws:

Special Tax Treatment Control Law (STTCL)

- The list of National Strategic Technologies will include artificial intelligence and future transportation. This is in addition to the existing categories such as semiconductors, secondary batteries, vaccines, displays, hydrogen, future mobility, and biopharmaceuticals.
- The tax credit rate for investments in facilities to commercialize national strategic technologies in the field of semiconductors will be increased by 5 percentage points to 20% for large and middle-scale corporations and 30% for small and midsize enterprises (SMEs).
- The tax credit rates for investments in facilities for the research and development (R&D) of new growth and source technologies, as well as national strategic technologies, will be increased to the respective credit rates eligible for investments in facilities to commercialize such technologies.
- Both the R&D tax credit and the integrated investment tax credit for national strategic technologies, as well as new growth and source technologies, will be extended from the current December 31, 2027 until December 31, 2029 (December 31, 2031 for R&D tax credits for semiconductors).
- The temporary investment tax credit will be extended to cover investments made by middle-scale companies and SMEs in the years 2024 and 2025 as presented in the table below.

Category of technology	Current (basic tax credit, %)			Incremental increase (additional tax credit, %)
	Large Co.	Middle-scale Co.	SME	
General	1	7	12	10
New growth and source technologies	3	8	14	
National strategic technologies	15	15	25	

- A 10% new tax credit is proposed for medium-sized companies engaged in the publishing business within the Seoul metropolitan area.
- The scope of career-interrupted individuals eligible for the integrated employment-related tax credits, which are limited to female workers, will be expanded to include male workers.

Additionally, the requirement for employment in the same industry to qualify for this tax credit will be removed.

- A new 10% tax credit will be available for qualifying expenses incurred by domestic companies in the operation of e-sports events outside the Seoul metropolitan area until December 31, 2026.
- A temporary reduction in individual consumption tax on cars, aimed at replacing old vehicles as specified in the law, will be available until June 30, 2025.
- A higher rate of tax credit will apply for 'Hometown Charity Donations' made to declared special disaster regions.

Corporate Income Tax Law (CITL)

- A grace period for applying the dividends received deduction rate under the old law, effective prior to the amendment on January 1, 2023, will be extended until December 31, 2026, a three-year extension from December 31, 2023 at present.

Inheritance and Gift Tax Law (IGTL)

- When a specific corporation engages in any prescribed transactions with a related party of its controlling shareholder at prices substantially lower or higher than fair market value, a portion of the profits is deemed to have been gifted by the corporation to the shareholder. The scope of certain transactions subject to this rule will be expanded to include the shifting of profits through capital transactions, such as disproportionate capital reductions, as prescribed in the Presidential Decree. (A specific corporation refers to a corporation where its controlling shareholder and relatives have at least 30% direct or indirect ownership.)
- The scope of relatives eligible for gift tax deductions will be aligned with that of relatives under the Basic National Tax Law:
 - Current: Blood relatives within the 6th degree and in-laws within the 4th degree
 - Proposed: Blood relatives within the 4th degree and in-laws within the 3rd degree
- The mandatory submission of payment statements or details, such as holding and transaction details, will be extended to investment associations holding or trading securities.

Comprehensive Real Estate Holding Tax (CREHT)

- The law permits qualifying taxpayers, including a household owning a single home, to apply for a tax payment deferment. A single home jointly owned by a married couple will also be included in the scope of a household owning a single home eligible for this application.

Value Added Tax Law (VATL)

- Domestic platform operators who act as sales or settlement agents or intermediaries in the supply of goods or services are required to submit relevant transaction details to the Korean tax authorities. This requirement will be expanded to include non-resident or foreign platform operators engaged in similar business activities. Platform operators include online marketplace operators, payment gateway providers, and others as prescribed by law. The amendment will apply to sales or settlement agency services provided on or after July 1, 2025.

Basic National Tax Law (BNTL)

- The amended law introduces a new rule for imposing enforcement fines on taxpayers for

failure to submit documents during tax audits:

- Fines will apply to taxpayers who fail to submit requested books and documents to the National Tax Service during tax audits without justifiable reasons.
- The deliberation of the Enforcement Fine Review Committee is required for the imposition of fines, which do not apply to taxpayers already subject to penalties for the same reason.
- Fines will be imposed if the requested documents are not submitted by the deadline, which must be set at least 30 days after the date of notification.
- Fines will be up to 0.3% of the taxpayer's average daily revenue per day from the day after the deadline. If the average daily revenue is difficult to calculate, an enforcement fine of up to KRW 5 million per day may be imposed.
- Fines may be reduced or exempted, considering compliance efforts and reasons for non-compliance.
- The amendment will apply to tax audits that commence on or after September 15, 2025.

Customs Act (CA)

- The customs duty exemption on aircraft parts and materials has been extended for one year.
- The monthly customs duty filing system, which allows qualifying taxpayers to make en bloc payments of customs duties on a monthly basis, has been abolished.

Proposed Amendments to the Enforcement Rules Following 2024 Tax Laws Changes

Following the comprehensive amendments to various tax laws in December 2024, the Ministry of Economy and Finance (MOEF) has announced proposed amendments to the Enforcement Rules of Tax Laws on February 26, 2025, as provided below.

Special Tax Treatment Control Law

Scope of facilities for the commercialization of national strategic technologies:

Current: Includes 54 categories of facilities in 7 sectors including semiconductors, secondary batteries, vaccines, displays, hydrogen, future mobility, biopharmaceuticals

Proposed: Expand the scope to 58 categories including additional facilities as follows:

- Semiconductors: Next-generation memory semiconductor-related components and materials manufacturing facilities → HBM, etc.
- Displays: Hybrid cover window materials, micro LED components and materials manufacturing facilities
- Hydrogen: Hydrogen processing bioenergy production facilities
- Secondary batteries: Manufacturing and processing facilities for metal compounds for cathode materials

Scope of facilities for the commercialization of new growth technologies:

Current: Includes 182 categories of facilities in 14 sectors including future vehicles and carbon-neutrality

Proposed: Expand to 183 categories including facilities used in the carbon-neutral sector such as low-carbon raw material steel manufacturing facilities. Also, bio-synthetic rubber will be added to

the existing category of biochemical raw material production facilities

R&D tax credit for national strategic technologies:

Current: The general R&D tax credit rate applies to research personnel involved in both national strategic technology projects and general R&D initiatives.

Proposed: Expand the R&D tax credit coverage. When over 50% of research time is dedicated to national strategic technology R&D, the R&D tax credit rates will be applied proportionally based on actual research time allocation.

Tax credit for the acquisition of a foreign company engaged in equipment, parts and materials (EPM) business

Current: Available for the acquisition of a foreign EPM producing company as outlined in the Act on Special Measures to Strengthen Competitiveness and Stabilize Supply Chain of EPM Industry

Proposed: Extend the tax credit to the acquisition of foreign companies producing economic security items specified in the Framework Act on Supply Chain Stabilization Support for Economic Security.

Corporate Income Tax Law

Common Expense Allocation Criteria:

Current: In general, common expenses incurred or paid by a corporation as a result of jointly operating or managing the same organization or business with a non-equity partner are allocated based on the ratio of sales or total asset value. As an exception, allocation can be based on the number of attendees for joint event expenses and purchase amounts for joint purchase expenses, among other criteria as prescribed in the enforcement rules.

Proposed: Guidance will be provided for joint R&D expenses and tangible asset joint usage fees. Allocation for joint R&D expenses will be based on revenue ratio from related business segments. For tangible asset joint usage fees, allocation will be based on the ownership ratio for fixed costs and usage frequency for non-fixed costs.

Succession to Shares in Qualified Spin-offs

Current: Allows the transfer of company shares belonging to the spun-off business segment in a qualified spin-off if the company's direct transactions with the spun-off business segment constitute at least 30% of its total transactions.

Proposed: Additionally, the transfer of shares in a wholly-owned subsidiary will be allowed in a qualified spin-off if the subsidiary's direct or indirect transactions with the spun-off business segment account for at least 20% of its total transactions.

Accelerated Depreciation for R&D Machinery and Equipment

Proposed: The useful life of R&D machinery and equipment for accelerated depreciation will be reduced from the current five years to three years.

Inheritance and Gift Tax Law

Valuation Method for Unlisted Insurance Company Shares

Current: Contingency risk reserve is included in liabilities when calculating the net asset value (=

assets minus liabilities) for the valuation of shares of unlisted insurance companies under the Insurance Business Act.

Proposed: For the valuation, the liabilities will include policy reserve and surrender value reserves, in addition to contingency risk reserves.

Comprehensive Real Estate Holding Tax

Scope of Unsold Housing Excluded from the Consolidation of Tax Assessment

Current: Unsold houses owned by construction and sales businesses are excluded from the consolidated taxation of comprehensive real estate holding taxes for five years.

Proposed: This exclusion period will be temporarily extended from five years to seven years for the years 2025 and 2026.

Exemption Period for Higher Tax Rates on the Transfer of Non-Business Land

Proposed: The suspension of the 10 percentage-point higher tax rates on the transfer of non-business land after demolition will be extended from the current two years to five years. This aims to mitigate the growing issue of neglected vacant properties intended to avoid incurring higher tax rates.

Basic National Tax Law

Interest Rate Adjustment for National Tax and Customs Duties Refunds

Proposed: The refund interest rate, currently 3.5% per annum, will be decreased to 3.1% in response to general interest rate cuts.

Government Unveils Plan to Introduce Inheritance Acquisition Tax System

On March 12, 2025, the Ministry of Economy and Finance (MOEF) announced a plan to reform the existing inheritance taxation by introducing a new inheritance acquisition tax system. This plan aims to improve tax equity by ensuring that each heir pays taxes on the property they inherit, enhance the effectiveness of deductions by applying them to the property inherited by each heir, and rationalize the tax burden on each heir by taxing only the properties inherited, similar to gift taxation. The plan outlines several important elements, including the taxation method, taxable items, personal deductions, deductions for inherited property, tax payment procedures, and anti-avoidance measures.

The Ministry plans to release a bill to amend related laws, including the Inheritance and Gift Tax Law, in March 2025. This will be followed by public hearings and an invitation for public comments in April. The legislative proposal will be submitted to the National Assembly in May 2025. The government aims to implement the new inheritance tax system in 2028, assuming the bill passes the National Assembly in 2025.

Tax Measures Proposed to Enhance Foreign Exchange Supply and Demand

The government has introduced a package of initiatives designed to address the structural imbalances in foreign exchange supply and demand, including outflows in the foreign exchange market and the need to revitalize the domestic capital market. Below is a brief summary of the proposed tax measures contained in this package.

Creation of a New Type of Individual Savings Account (ISA) for Domestic Investments

Currently, ISAs are limited to invest in domestic securities and related investment-type funds. A proposal seeks to establish a new ISA with a tax exemption threshold twice that of general investment type. The government plans to increase the limit on investments in domestic securities by domestic securities-type funds from 40% to further encourage investment in the domestic stock market, as outlined in the Presidential Decree of the Law. This initiative requires amendments to the Special Tax Treatment Control Law (STTCL) and the relevant Presidential Decree.

Reintroduction of Certain Corporate Value Promotion Tax Incentives

The government is seeking to reintroduce the canceled corporate tax incentives aimed at promoting enhanced shareholder returns. This includes:

- A 5% corporate income tax credit for companies achieving a 5% increase in average shareholder returns relative to the previous three years.
- Separate taxation on increased dividend amounts received by individual shareholders from corporations claiming the tax credit (with a 5% increase relative to the past three years).

Concurrently, the government intends to expand ISA tax incentives, including:

- Increasing the maximum deposit limits from KRW 20 million per year (KRW 100 million total) to KRW 40 million per year (KRW 200 million total).
- Raising the non-taxable deposit cap from KRW 2 million (KRW 4 million for low-income earners) to KRW 5 million (KRW 10 million for low-income earners).

For both the proposed corporate tax incentives and the expansion of ISA benefits, the government plans to amend the STTCL and the corresponding Presidential Decree.

Streamlining Tax Exemption Applications for Government Bond Investments

The current process requires non-residents to submit numerous documents to validate their tax exemption status, including residency certificates and detailed transaction and holding statements. The government's new plan aims to simplify this process significantly by minimizing the required documentation to only essential information confirming the investor's non-residency status. This will involve:

- Allowing investors to submit basic identification details (e.g., name and address) to either an international depository and clearing organization (like Euroclear) or a domestic financial institution.
- Discontinuing the requirement to submit additional documents, such as residency certificates and transaction reports.
- Removing the obligation for Qualified Foreign Intermediaries (QFIs) to verify non-residency status

Changes in Tax Laws

Amended Corporate Income Tax Law (CITL)

Background of Amendment and Key Points

A previous provision that allowed holding companies to benefit from a higher rate of dividends received deduction (DRD), was removed to subject holding companies to the same rates applied to general corporations under the amendment made at the end of December 2022. Despite the deletion, a transitional period was established, allowing domestic corporations to apply the old DRD rate to dividends received until December 31, 2023. This period has now been extended to December 31, 2026, providing holding companies additional time to acquire shares in publicly listed subsidiaries. (Proclaimed and implemented on March 14, 2025)

Amended Special Tax Treatment Control Law (STTCL)

Background of Amendment and Key Points

The amended STTCL includes changes to foster corporate investment and support small business owners. These changes include expanding the scope of national strategic technologies, extending the deadline for temporary investment tax credits for middle-scale companies and SMEs, increasing capital gains tax reduction rates and thresholds for land used in public projects, raising income deduction limits for small businesses and sole proprietors, and temporarily reducing the individual consumption tax on cars to encourage the replacement of old vehicles. These changes are designed to stimulate investment and assist businesses in managing aging assets. (Proclaimed and implemented on March 14, 2025)

Amended Basic National Tax Law (BNTL)

Background of Amendment and Key Points

To promote proactive field activities by tax officials, the BNTL has been amended to include provisions for cash rewards recognizing special contributions in tax assessment, collection, and litigation. Additionally, to combat tax evasion, the amendment introduces enforcement fines for taxpayers who fail to submit required documents, such as books and records, during tax audits without justifiable reasons. (Proclaimed and implemented on March 14, 2025)

Amended Inheritance and Gift Tax Act (IGTL)

Background of Amendment and Key Points

The IGTL has been amended to prevent the misuse of roundabout gifting to avoid gift tax. The scope of transactions subject to deemed gift tax rules aimed at those between a specific

corporation and its related parties has been expanded to include the shifting of profits through capital transactions, such as disproportionate capital reductions. The definition of relatives eligible for gift property deductions has been narrowed from "blood relatives within the 6th degree and in-laws within the 4th degree" to "blood relatives within the 4th degree and in-laws within the 3rd degree." Additionally, investment associations holding or trading stocks must now submit detailed member information and transaction details to the relevant tax office. (Proclaimed and implemented on March 14, 2025)

Amended Value Added Tax Law (VATL)

Background of Amendment and Key Points

To enhance transparency in tax collection for online transactions, the amended VATL extends the obligation to submit transaction statements or details on a quarterly basis to non-residents or foreign corporations acting as sales agencies or intermediaries for online marketplace operators, payment gateway providers, and others as prescribed by law. (Proclaimed and implemented on March 14, 2025)

Amended Comprehensive Real Estate Holding Tax Law

Background of Amendment and Key Points

The amended law now includes a single home jointly owned by a married couple within the scope of a household owning a single home eligible for tax payment deferment on individual households. This change reflects the challenging economic conditions and aims to alleviate the growing burden of comprehensive real estate holding tax. (Proclaimed and implemented on March 14, 2025)

Amended Customs Act

Background of Amendment and Key Points

The Customs Act has been amended to abolish the system allowing qualifying taxpayers to make en bloc payments of duties on a monthly basis. The sunset on the exemption from customs duties on imported aircraft parts and materials has been extended by one year. Additionally, the amendment includes measures to address the abuses of virtual assets in trade and the concealment of assets for tax avoidance by expanding the definition of virtual asset businesses subject to tax data submission requirements. (Proclaimed and implemented on March 14, 2025)

Amended Presidential Decree of the Corporate Income Tax Law

Background of Amendment and Key Points

In accordance with the amendments to the Corporate Income Tax Law (CITL), which include provisions that corporations issuing donation receipts for amounts above a specified threshold must issue the receipts electronically and imposes fines of up to KRW 20 million on virtual asset service providers who fail to comply with the corrective orders of the National Tax Service Commissioner regarding data submission, the Presidential Decree of the CITL has been

amended to set details as follows: 1) outline the specific donation threshold that necessitates electronic receipt issuance; 2) set details for imposing penalties for non-compliance by virtual asset service providers; 3) alleviate the tax burden on non-profit corporations by excluding proceeds from the disposal of assets used in long-term proprietary business from taxable income; and 4) simplify the tax exemption application process for interest and capital gains from investments in government bonds to promote foreign corporations' investment in such bonds. (Proclaimed and enforced by the Presidential Decree No.35350 on February 28, 2025)

Amended Presidential Decree of the Individual Income Tax Law

Background of Amendment and Key Points

To address the challenge of low birth rates and ease the financial burden of childcare, amendments have been made to the Individual Income Tax Law (IITL), ensuring that corporate childbirth support payments provided to employees are not subject to taxation. Additionally, the amended IITL classifies gains from investments in fractional investment products, such as investment contract securities or non-monetary trust beneficiary securities, as dividend income to align with gains from collective investment vehicles that have similar income structures. To implement and support these amendments, the Presidential Decree of the IITL has been amended to: 1) outline clear criteria for the tax exemption eligibility for corporate childbirth support payments; 2) specify the scope of gains from fractional investment products which are taxed as dividend income; 3) include short-term private rental housing in the category of rental properties exempt from higher capital gains tax rates applicable to multi-homeowners, thereby facilitating the supply of rental housing; and 4) streamline the application process for tax exemptions on interest and capital gains from investments in government bonds, aiming to attract more foreign individual investors in these bonds. (Proclaimed and enforced by the Presidential Decree No.35349 on February 28, 2025)

Amended Presidential Decree of the Special Tax Treatment Control Law

Background of Amendment and Key Points

Recent amendments to the Special Tax Treatment Control Law (STTCL) provide enhanced capital gains tax and comprehensive real estate holding tax benefits for single-household owners purchasing homes in regions experiencing population decline. In addition, the amended STTCL expands the categories eligible for income deductions for sports facility usage fees, aligning them with other deductible expenses such as credit card payments. In line with this, amendments to the Presidential Decree of the STTCL have been made to: 1) outline the eligibility criteria for housing in depopulated areas and specify the scope of sports facilities and their associated usage fees; 2) expand the list of eligible technologies under the R&D tax credit for new growth and source technologies as well as national strategic technologies, aimed at bolstering support for strategic high-tech sectors and future growth industries; 3) expand the scope of government bonds eligible for special tax treatment, offering individual investors more opportunities to benefit from favorable tax conditions; and 4) extend the period for offsetting overpaid semi-annual earned income tax credits against future earned income or child tax credits before the issuance of the assessment and payment notice for individual income tax. (Proclaimed and enforced by the Presidential Decree No.35347 on February 28, 2025)

Amended Presidential Decree of the Inheritance and Gift Tax Law

Background of Amendment and Key Points

Recent amendments to the Presidential Decree of the Inheritance and Gift Tax Law (IGTL) have introduced several significant changes: 1) expanding the list of businesses qualifying for tax deductions for succession to family business to include non-manufacturing businesses operated by micro enterprises for a long term; 2) including houses provided rent-free to employees in the scope of business assets eligible for deductions for family business succession; 3) clarifying a single-household ownership, ensuring that, where an heir's spouse jointly owns a house inherited from a third party prior to the decedent's death, it will still be regarded as single household-one house ownership for tax purposes; and 4) expanding the definition of controlled corporations to include foreign corporations, where profits from transactions with related parties, including a controlling shareholder, are treated as gifts to the controlling shareholder, thereby preventing unfair gifting practices to controlling shareholders and their relatives. (Proclaimed and enforced by the Presidential Decree No.35351 on February 28, 2025)

Amended Presidential Decree of the Law for Coordination of International Tax Affairs

Background of amendment and Key Points

In a move to curb cross-border tax evasion, the Law for Coordination of International Tax Affairs (LCITA) has undergone significant amendments. These changes broaden the scope of automatic financial transaction information exchange to include 'transactions involving crypto assets' on a reciprocal basis between Korea and its contracting states. Furthermore, the LCITA amendments reflect updates to the global minimum tax rules in a bid to align domestic rules with the Administrative Guidance released by the OECD's Inclusive Framework.

To facilitate the implementation of these changes, the Presidential Decree of the LCITA has been amended to: define the scope of crypto asset transactions subject to the automatic information exchange; 2) outline procedures for applying the global minimum tax system, including methods for special treatment of GloBE losses; and 3) ease the criteria for imposing penalties for the non-compliance with overseas financial accounts reporting obligation. (Proclaimed and enforced by the Presidential Decree No.35348 on February 28, 2025)

Amended Presidential Decree of the Comprehensive Real Estate Holding Tax Law

Background of Amendment and Key Points

The amended Presidential Decree of the Comprehensive Real Estate Holding Tax Law excludes short-term private rental housing from the scope of the comprehensive real estate holding tax. This applies to private sector-constructed or buy-to-rent private housing, if they meet specific price criteria. This adjustment aligns with the introduction of the short-term private rental housing category under the Special Act on Private Rental Housing, which requires a minimum rental

period of six years for non-apartment properties. To enhance employee welfare, the scope of employee housing exempt from the comprehensive real estate holding tax has been broadened. Furthermore, the amended Presidential Decree relaxes the criteria for local low-cost housing in terms of pricing. Such housing will not be included in the house count when determining the 'one household, one house' status. This change aims to encourage balanced regional development across the country by making affordable housing more accessible. (Proclaimed and enforced by the Presidential Decree No.35352 on February 28, 2025)

Rulings Update

Whether foreign tax credits can be applied to the portion of dividends received from a foreign subsidiary that is not excluded from gross income

The Corporate Income Tax Law (CITL) stipulates that 95% of the dividends received by a domestic company from a foreign company are excluded from its gross income under the dividends received deduction (DRD) rule, provided the domestic company meets the shareholding and other requirements specified in Article 18-4 of the CITL. The issue in this case is whether a foreign tax credit can be applied to the amount equivalent to 5% of the dividends received from the foreign subsidiary, which is not excluded from the gross income of the domestic company under the DRD rule.

In a recent authoritative interpretation, the National Tax Service (NTS) ruled that 5% of the dividends received, which is not excluded from gross income under the DRD rule, should be excluded from foreign source income when calculating the foreign tax credit limit. This ruling appears to consider the following points: i) it is reasonable to interpret that the term "dividends eligible for DRD", to which the foreign tax credit does not apply, refers to the entire amount of dividends received from the foreign subsidiary, not just the 95% that is excluded from gross income, in light of the text of the law; and ii) the reason for excluding only 95% of the dividends from gross income, rather than 100%, is to account for the costs incurred by the domestic parent company in relation to its investment in the foreign subsidiary, which is deemed to be 5%. As such, the legislative intent is to exclude from gross income the amount of foreign-source dividend income calculated after deducting the 5% of costs deemed to have been incurred by the domestic parent company. Taking these points into account, this ruling that the foreign tax credit cannot apply to 5% of the dividends received is considered a reasonable interpretation that aligns with the text and the intent of the law. (*Seomyeon-2024-beobgyugukjo-2997, 2025.1.21*)

Observation: Consequently, companies that have opted to apply the 95% DRD, instead of the foreign tax credit, on the dividends received from foreign subsidiaries, need to exercise caution not to apply the foreign tax credit to the 5% of dividends received, due to the misunderstanding that the 5% of the dividends received is not originally covered by the DRD.

Whether it is lawful to make a tax assessment without prior notice of tax assessment due to the exception reasons for pre-assessment review

Under Article 81-15(1) of the Basic National Tax Law (BNTL), it is stipulated that the head of a tax office head or the commissioner of a regional tax office must provide taxpayers with prior written notice in specified situations, such as when the tax amount to be notified is at least KRW one million. Upon receiving this prior notice, taxpayers have the right to request a pre-assessment review to verify the legality of the notification's content. This request must be submitted to the respective tax authority within 30 days of receiving the notice, as stipulated in Article 81-15(2) of the BNTL. However, there is an exception where a pre-assessment review can be omitted if the

period from the date of the prior notice of tax assessment to the expiration of the statute of limitations for imposing national taxes is three months or less (Article 81-15(3) of the BNTL, “exception provision at issue”).

The central question in this case is whether a tax assessment made without prior notice of tax assessment is lawful where there is an exception for a pre-assessment review due to the period until the expiration of the statute of limitations for imposing national taxes being three months or less, and whether this can be considered as an exception to the requirement for issuing prior notice of tax assessment.

The Supreme Court ruled that it is unlawful to omit the prior notice of tax assessment based on the exception reasons for a pre-assessment review when the period until the expiration of the statute of limitations for imposing national taxes is three months or less. The grounds for the court’s decision include the following: i) the BNTL does not provide any exception for omitting the obligation of a prior notice of tax assessment; 2) the exception provision at issue specifies that the period from “the date of prior notice of tax assessment” to the expiration of the statute of limitations for national tax imposition being three months or less is an exception for a pre-assessment review, thus presupposing that a prior notice of tax assessment has been issued; and 3) even if a pre-assessment review is not conducted, a taxpayer who receives a prior notice can correct errors in advance through a statement of opinion or exercise the right to request an early decision to reduce additional penalty taxes. The ruling underscores that exceptions to the pre-assessment review cannot be construed to justify omitting the prior notice of tax assessment. (*Daebeop2023du41659*, 2025. 2. 13.)

Observation: This ruling clearly establishes that exceptions allowing for the omission of a pre-assessment review cannot be extended to justify the omission of a prior notice of tax assessment. As highlighted in this ruling, even if the tax authorities have little time to issue a prior notice before making a tax assessment and there are minimal procedural benefits for the taxpayer from receiving such notice, the procedural justification for omitting the prior notice is insufficient. Therefore, taxpayers who have received a tax assessment without prior notice, based on the exception reasons for the pre-assessment review, may consider referring to this ruling to challenge the legality of such assessments.

Whether tax reductions for youth startup SMEs would be reinstated if a youth representative regains their status as the largest shareholder

The Special Tax Treatment Control Law (STTCL) provides significant tax exemptions for youth start-up SMEs if certain requirements for a youth representative are met. According to Article 5(2) of the Presidential Decree of the STTCL (‘provision in question’), if a youth representative in a start-up SME fails to maintain the criteria for being considered the largest shareholder during the tax exemption period, the SME shall be subject to the tax reductions for a general startup SME, rather than the more favorable exemption for youth startup SMEs from the fiscal year in which the criteria were not met through the end of the tax exemption period.

This case concerns a youth start-up SME established outside of designated over-concentration control regions where the youth representative lost the status of the largest shareholder during the tax exemption period, resulting in the application of the reduction rate for general startup

SMEs (i.e., 50% rather than 100%). In this case, if the representative regains their status as the largest shareholder in the subsequent year, a question arises as to whether the exemption rate for youth startup SMEs can be reinstated for the remaining reduction period (i.e., from 50% to 100%).

The NTS authoritative interpretation states that if the representative of a youth startup SME loses the status of the largest shareholder during the exemption period, regaining this status in subsequent fiscal years does not restore the full exemption for youth startup SMEs. The interpretation continues that, according to the provision in question, once the criteria are not met, the tax reduction for general startup SMEs applies for the remainder of the exemption period from the point of failing to meet the largest shareholder criteria. The provision in question does not provide a basis to reinstate the exemption rate for youth startup SMEs for the remaining period simply because the youth representative regains the largest shareholder status. (*Seomyeon-2024-beobin-1295*, 2024.7.31)

Observation: Consequently, if the representative of a youth startup SME loses their status as the largest shareholder, the tax exemption rate will be reduced or the tax reduction will be suspended during the remaining exemption period, regardless of whether their status as the largest shareholder is restored later. For startups outside designated over-concentration control areas, the exemption rate will drop from 100% to 50%, while for those within such areas, the tax reduction rate will fall to from 50% to 0%. To avoid these potential reductions or suspensions of tax benefits, it is important for youth startup SMEs to ensure that their representative retains their largest shareholder status throughout the entire period of tax exemption or reduction.

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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