Korean insights & regulatory updates

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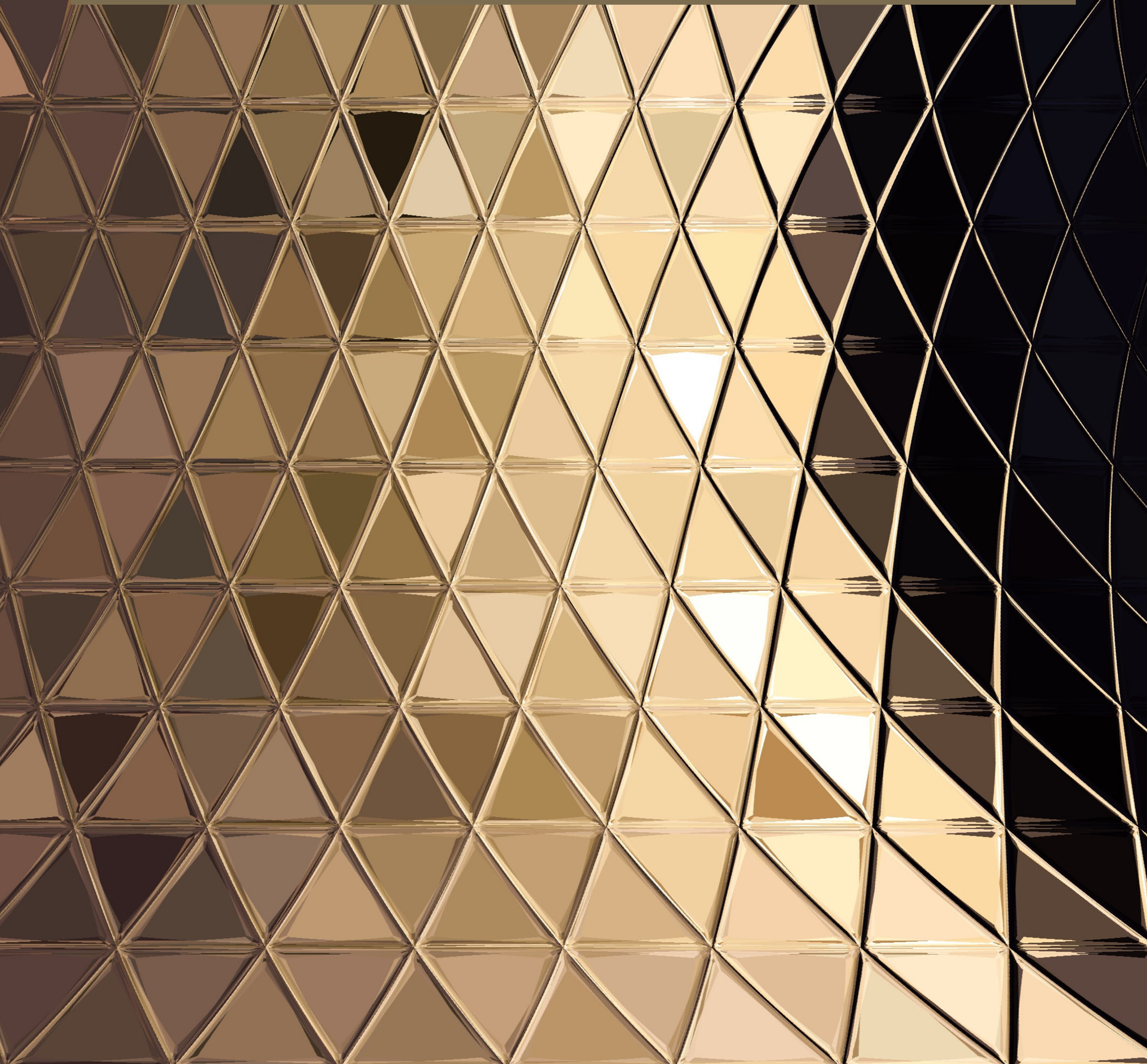
Tax updates

Annual proposed amendments to tax laws

The Ministry of Strategy and Finance announced its proposed annual amendments to the tax laws in July 2023. These proposed amendments are expected to come into effect after receiving approval from the National Assembly by the end of the year.



Corporate income tax

Amendments to the Dividend Received Deduction ("DRD") system

Several relatively technical amendments to the DRD rules have been proposed. They aimed at streamlining the taxation on capital transactions and therefore expanding the scope of the DRD. Moreover, entities operating in resource development would benefit from an ease in rules to apply DRD.

If approved by the National Assembly, the proposed amendments will mainly take effect for dividends received on or after January 1, 2024.

Mandatory reporting of overseas stock-based compensation information by employees

Under this new obligation, a domestic corporations or a place of business of a foreign corporation will be required to furnish comprehensive information regarding overseas stock-based compensation granted to employees and executives, including former ones, by foreign controlling shareholders.

The main outlines of this obligation are as follows:

A. Scope of foreign controlling shareholders

- If employees and executives are from a domestic corporation, overseas controlling shareholders refer to the foreign corporation having ownership directly or indirectly of 50% or more interest in the domestic corporation.
- If employees and executives are from a place of business of a foreign corporation, foreign corporation's headquarters and branches, and other foreign corporations that directly or indirectly own 50% or more of the stocks of foreign corporations.

B. Definition of overseas stock-based compensation

- Stock options and similar items refer to the right to acquire or purchase stocks of a foreign corporation that is a foreign controlling shareholder, at a pre-determined price.
- It indicates case where the foreign corporation that is the controlling shareholder compensates in money equivalent to the stock or stock value of the foreign corporation.

C. Transaction details of stock-based compensation to be reported includes:

- Details of the grant/exercise/payment of stock-based compensation.
- Income from exercise of stock options.
- Personal information of executives and employees.

D. Deadline to report

- Submissions are due on or before March 10th of the year following the year in which stock-based compensations are exercised or paid.

If approved by the National Assembly, the new obligation will be effective for the exercise or payment of compensation after January 2024.

Tax updates
Adjustment of International Tax Act (AITA)

Introduction of Reporting Obligation for Offshore Trusts

A new obligation has been introduced concerning the reporting of offshore trust details, and this requirement will apply to both residents and domestic corporations.

An offshore trust, established under foreign laws but possessing similar characteristics to a trust as defined in Article 2 of the Korean Trust Act, will be subject of this new obligation.

The core points of this obligation are outlined as follows:

- Initial Reporting: whenever a resident or domestic corporation creates or transfers properly to an offshore trust, the trustor must report the necessary information per case.
- Ongoing Reporting: subsequent to the establishment of an offshore trust, if the trustor of a resident or domestic corporation effectively controls the trust property, annual information reporting becomes mandatory. In this case, "controls" entails retaining rights such as terminating the trust, designating or changing beneficiaries, and inheriting remaining assets after termination.

The information that must be reported includes basic information related to the trust arrangement, encompassing details about the trustor, trustee, beneficiaries, and the valuation of trust assets.

The reporting deadline for this information is within six months after year-end. Failure to comply may result in penalties of up to 10% of the value of the trust property, with a maximum fine of KRW 100 million for non-compliance. The valuation of trust property refers to either its market value or its acquisition value (if is difficult to determine its market value).

If approved by the National Assembly:

- This proposed amendment will apply to reporting obligations for fiscal years commencing on or after January 1, 2025.
- This requirement to report offshore trust-related information will be compulsory even for trusts established before December 31, 2024, and that will be operating during the fiscal year beginning on January 1, 2025.

Tax updates

Adjustment of International Tax Act (AITA)

Revised Deadline for Submitting Local Files and Master Files

Taxpayers with an annual turnover exceeding KRW 100 billion and foreign-related party transactions surpassing KRW 50 billion are currently required to submit local files, master files, and country-by-country reports within 12 months of their fiscal year-end.

Under the revised regulations, the submission time frame for local and master files will be halved to six months, while the deadline for filing country-by-country reports will remain unchanged.

Moreover, as per the proposed amendment, forms pertaining to related-party disclosures (including statements of international transactions, summarized income statements of foreign related parties, and reports on arm's length pricing methods) that were previously included as annexes in local files will now need to be submitted as separate forms.

if approved by the National Assembly, this proposed amendment will apply to fiscal years commencing on or after January 1, 2024.

Revised Definition of Permanent Establishment

The present definition of Permanent Establishment ("PE") under the Current Income Tax Act ("CITA") describes it as **1) a fixed place of business in Korea** and **2) a place of business similar to a place of business in Korea located in a foreign country**.

However, under the proposed amendment, the following principle should be followed:

1. **Valid tax treaty acknowledgment:** a place of business recognized as a PE according to the provisions of valid tax treaty in force.
2. **Absence of tax treaty:** if no effective tax treaty is in force, a place of business shall be deemed a PE based on domestic laws, imposing taxes on the income earned by that business on a net basis, akin to the tax regime applied to resident taxpayers.
3. **Jurisdiction without corporate tax system:** in cases where a jurisdiction lacks a corporate tax system, a place of business shall be considered to have the authority to tax income attributable to it in line with the OECD Model Tax Convention on Income and on Capital.
4. **Exempted jurisdictions:** any place of business not falling within the parameters of paragraphs 1 to 3 above, and operating in a jurisdiction where income attributable to such operations is exempt from taxation.

If approved by the National Assembly, this proposed amendment will take effect for fiscal years commencing on or after January 1, 2024.

Tax updates

Other taxes

Extension of the "flat rate" timeline for Foreign Workers

Whereas the personal income tax rate in Korea is progressive, foreign executive officer or employee can use, as an option, a flat rate for the taxation of their income received in return of his/her labour in Korea. Beyond a certain level of taxable income, it is more beneficial for an expatriate to use this flat rate compared to the standard progressive rate. This preferential rate is applicable to 20 years, from the date the person first provides labour in the Republic of Korea.

The amendment is proposing to extend this preferential rate scheme until December 31, 2028.

Moreover, it is also proposed, when using the above flat rate, to exclude from the employment income any housing benefit providing by the employer, under certain conditions.

If approved by the National Assembly, these proposed amendments will take effect for fiscal years commencing on or after January 1, 2024.

HR & Payroll updates

Social securities update & minimum salary increase

The minimum wage will increase by 2.5% as of January 1, 2024, as announced by the Minimum Wage Commission.

HR & payroll updates

Minimum salary increase & Social securities update

Minimum wage increase in 2024

Minimum wage will be increased by 2.5%, applicable from 2024.

Minimum wage

- In year 2023
  - Hourly wage: KRW 9,620
  - Monthly wage (209 hours): KRW 2,010,580
  - Increase rate: 5.0%
- In year 2024
  - Hourly wage: KRW 9,860
  - Monthly wage (209 hours): KRW 2,060,740

Increase rate: 2.5%

Adjustment in national pension base salary

National Pension base salary has been adjusted based on 2022 total salary, as reported in the year-end tax settlement. Therefore, National pension contribution amount has been changed accordingly:

National pension base salary

- From July 2022 to June 2023
  - Lower limit: KRW 350,000 (KRW 15,750*)
  - Upper limit: KRW 5,530,000 (KRW 248,850*)
- From June 2023 to July 2024
  - Lower limit: KRW 350,000 (KRW 15,750*)
  - Upper limit: KRW 5,900,000 (KRW 248,850*)

*National pension contribution amount

Accounting updates

Implementation of eXtensible Business Reporting Language (XBRL)

From 2023, XBRL will progressively become mandatory for companies disclosing their annual business report. From the 3rd quarter of 2023, listed financial companies and unlisted corporations subject to business report submission will have to apply XBRL to their financial statements.

Accounting updates

Implementation of eXtensive Business Reporting Language (XBRL)

Non-financial listed corporations must apply XBRL, not only to the primary financial statement, but also to the related notes, starting from this year's year-end business report. As a result, companies are in a situation in which they must prepare for the implementation of XBRL and supplement their needs.

1. Overview

1) Introduction

- XBRL is a standard format that applies XML to the business reporting area, so that complex corporate information can be created, exchanged, and compared efficiently.
- By granting a standardized taxonomy to corporate financial statements and notes, it is possible to obtain an effect similar to unifying the CoA (Chart of Account) of all applicable companies.

2) Plan

- Execution period: From 2023
- Companies subject to submission:
  - Stock listed company
  - Companies subject to submission of the annual report and having adopted K-IFRS
- Accounting standard: K-IFRS
- Regulator: FSS (Financial Supervisory Service)
- Report to submit: Annual and Quarterly report
- Scope for submission:
  - Stock listed Company of total assets 2 trillion KRW: **financial statements and footnotes from FY 2023**
  - Stock-listed Company in the Financial Industry and Companies subject to submission of their annual report: **financial statements from Q3 2023**
  - Stock listed Company of total assets 500 billion ~ 2 trillion KRW: **financial statements and footnotes from FY 2024**
  - Stock listed Company of total assets under 500 billion KRW: **financial statements and footnotes from FY 2025**

2. Impacts of XBRL implementation

- Increase in time for consistent verification of financial figures and taxonomy for XBRL data.
- Increase in time for updating XBRL data when changes to financial statements and notes occur near the disclosure date.
- Increased possibility of disclosure errors due to lack of understanding of XBRL writing rules and attributes of Taxonomy.
- Increase of information to users (regulators, investors, etc.).

3. Recommandation for companies

- Complete and accurate disclosure supported by proper personnel with professional knowledge of XBRL rules and taxonomy.
- Reduce the risk of errors by achieving a high standard taxonomy compliance rate (if necessary, improve the efficiency of manpower management through XBRL work-related outsourcing).
- Reduce XBRL financial statements preparation time and compliance with disclosure deadlines through prior structuring work
- Cultivate XBRL knowledge among the personnel through training

Key figures

Tax rates & social insurance rates

Individual tax rates

Aggregate income taxation standard	Tax rate*
Below KRW 14 million	6.6%
KRW 14 million ~ below KRW 50 million	16.5%
KRW 50 million ~ below KRW 88 million	26.4%
KRW 88 million ~ below KRW 150 million	38.5%
KRW 150 million ~ below KRW 300 million	41.8%
KRW 300 million ~ below KRW 500 million	44%
KRW 500 million and below KRW 1 billion	46.2 %
Above KRW 1 billion	49.5%

* Including local income tax.

Corporate tax rates

Taxable income	Applicable rate*
Amount below KRW 200 million	9.9%
Amount exceeding KRW 200 million and below KRW 20 billion	20.9%
Amount exceeding KRW 20 billion and below KRW 300 billion	23.1%
Amount exceeding KRW 300 billion	26.4%

* Including local income tax.

Social insurance rates

Social insurance	Employer portion	Employee portion
Health insurance and long-term care insurance	4.0%	4.0%
National pension	4.5%	4.5%
Employment Insurance	0.9% + (0.25%~0.85%)	0.9%
Industrial accident compensation insurance	0.7%~18.6%	
Total	**About 10.35% ~ 28.85% of wage**	**About 9.4% of wage**

Premium rate introduced in this table may vary depending on the situation. Besides, upper limitation is set for some contributions.

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*Where permitted under applicable country laws

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