Korean insights & regulatory updates

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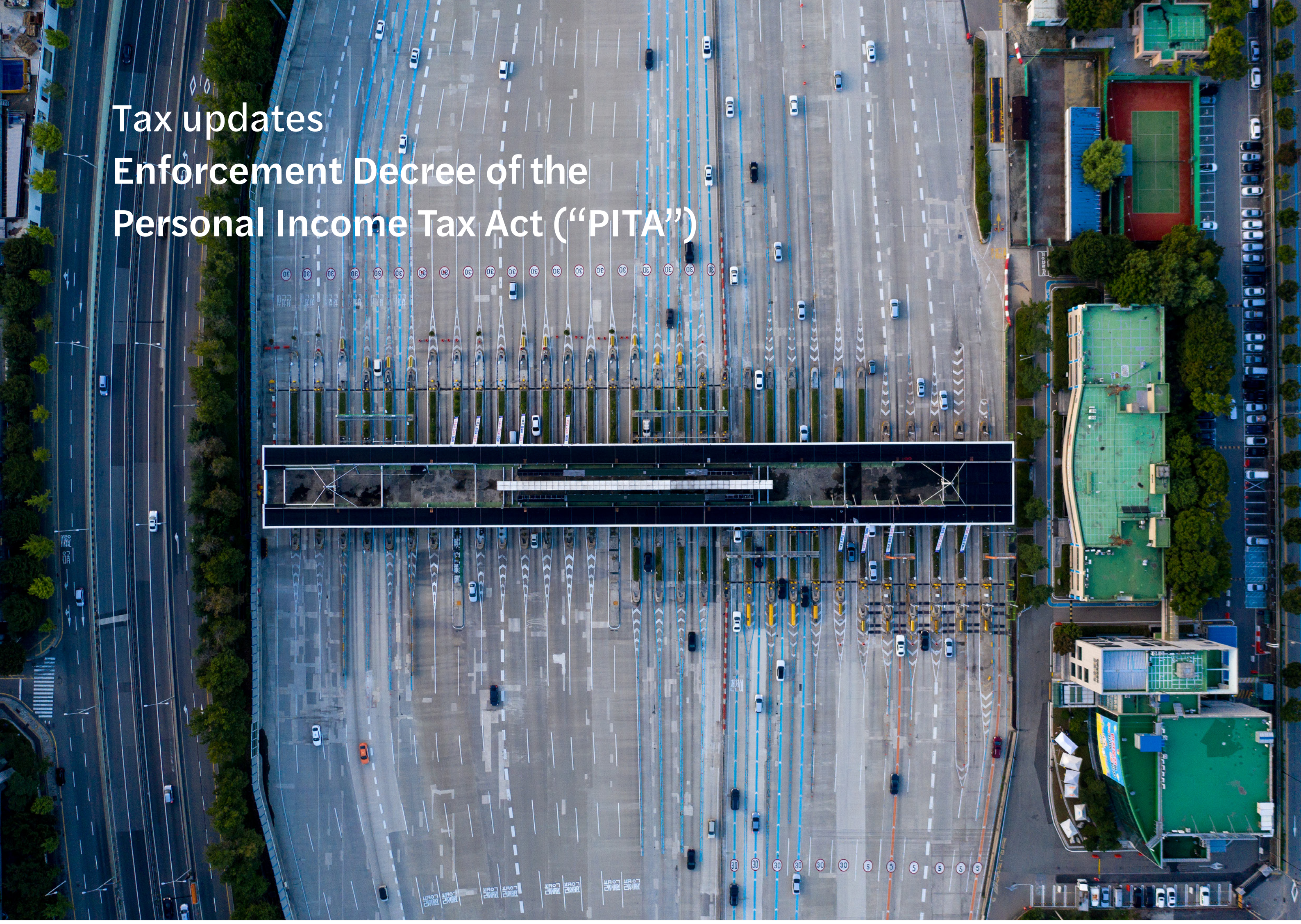
Tax updates

Annual subsequent amendments to tax laws

The Ministry of Strategy and Finance announced the subsequent amendments to the Enforcement Decree of the Tax Law on January 23, 2024. The subsequent amendments were finally announced and implemented on February 29, 2024, with some modifications.



Tax updates
Enforcement Decree of the Personal Income Tax Act ("PITA")

Specification of regulations related to transaction details of employee stock-based compensation and similar instruments (newly added Article 216-5 of the Enforcement Decree of the PITA)

The amendment to the PITA (newly added Article 164-5) requires that employees of a domestic corporations or a place of business of a foreign corporation, who are under the control of a foreign legal entity as overseas controlling shareholders, must mandatorily submit transaction details when they exercise stock options and receive stock-based compensation (bonuses paid in the form of stock or the value of stock). The definition of an overseas controlling shareholder and the concept of stock-based compensation are included in the enforcement decree.

The Enforcement Decree of the PITA specifies the scope of foreign entities that qualify as overseas controlling shareholders as follows:

1. For employees and executives of a domestic corporation: a foreign corporation that directly or indirectly owns more than 50% of the shares of the domestic corporation, and
2. For employees and executives of a place of business of a foreign corporation: the head office or branches of the foreign corporation with a business establishment in Korea, or a foreign corporation that directly or indirectly owns more than 50% of the shares of such foreign corporation.

Additionally, stock-based compensation is defined as bonuses paid in stock or the monetary equivalent of stock value, and amounts paid in accordance with pre-established stock-based compensation operational guidelines.

The reason for the addition of this regulation is to ascertain the income of employees of foreign corporations more accurately. The new obligation will be effective for the exercise or payment of compensation after January 1, 2024

Tax updates Corporate Income Tax Act ("CITA")

Expansion of the scope of deductible personnel expenses for expatriate employee to overseas subsidiaries (Enforcement Decree of the CITA §19)

Previously, the conditions for recognizing personnel expenses of expatriate employee as deductible expenses were limited to: 1) small and medium-sized enterprises, 2) direct and indirect 100% ownership of an overseas local subsidiary, and 3) cases where the personnel expenses paid by the domestic corporation were less than 50% of the total personnel expenses paid by both the domestic and the overseas invested corporations.

The amendment has expanded the deductible scope and conditions to include cases where the domestic corporation withholds and pays income tax on behalf of expatriate employees to overseas local subsidiaries. This is only applicable if the individual qualifies as a resident under the PITA and his/her personal income tax is paid. The reason for this amendment is to rationalize the scope of deductible personnel expenses and enhance corporate competitiveness. It will apply to expenses paid during the fiscal year in which the decree is implemented.

Addition of a requirement to attach a dedicated license plate for deducting business use cars (Enforcement Decree of the CITA §50-2)

Previously, the only requirement for deducting expenses for business use cars was enrollment in business insurance. However, the requirements have been strengthened with the addition of a mandate to attach a corporate business use dedicated license plate. This applies to vehicles that are required to have the plate attached, in accordance with standards set by the Minister of Land, Infrastructure and Transport, starting from January 1, 2024. The reason for the amendment is to prevent the private use of corporate business cars, and it will apply to fiscal years beginning on or after January 1, 2024.

Tax updates

Enforcement Decree of the Value Added Tax Act ("VATA")

New regulation for the mandatory registration of a business place by the tax authority, exercising its authority for foreign suppliers eligible for simplified VAT registration. (Enforcement Decree of the VATA §11(6))

Under the current regulations, businesses that have not registered within 20 days of their commencement are subject to automatic registration by the tax authority.

The amendment expands this to include simple business operators supplying electronic services who also fail to register within this timeframe.

The purpose of the revision is to improve the effectiveness of the simple business scheme. The new provisions will apply to registrations carried out by the tax authority after the devcree's enforcement date.

Expansion of the VAT exemption scope for personal services (Enforcement Decree of the VATA §42(2) newly established sub-items)

Under the current regulations, VAT exemption applies to the supply of personal services by individuals, corporations, or non-corporate entities such as associations or foundations. These entities must supply services independently and receive compensation for the personal services:

The amendment adds an exemption for simple manpower supply services* used in manufacturing, repairing, building, or other operations, utilizing another business's facilities or equipment at another business's site. (*Services involving the dispatch of workers according to the Dispatch Law are excluded.) The purpose of this amendment is to expand support for manpower supply. It will be applicable to services supplied from January 1, 2025, onwards.

Tax updates
Enforcement Decree of the Special Tax Treatment Control Act

Broadening the exclusion criteria for special provisions concerning foreign engineers, foreign workers, and exceptional domestic personnel. (Enforcement Decree of the Special Tax Treatment Control Act §16, §16-2, §16-3)

Under current regulations, exclusion conditions for the application of special cases related to concerning foreign engineers, foreign workers, and exceptional domestic personnel.

- Special cases are as below:
  1. Income tax reduction for foreign engineers (Law §18)
  2. Special tax rate regime for foreign workers (Law §18-2)
  3. Income tax reduction for exceptional domestic personnel returning to Korea (Law §18-3)
- As of the end of the tax year (12.31), if foreign workers or exceptional domestic personnel are related party* with the company, they are excluded from application.

The amendment expands the timing for determining related party status from the end of the fiscal year to include the period during employment. The purpose of the amendment is to prevent tax evasion, and it will apply to income earned during the fiscal year in which the decree is implemented.

*Defined by the Enforcement Decree of the Framework Act on National Taxes §1-2 as a familial relationship or management control relationship

Application of the special tax regime's single tax rate for foreign workers: Tax exemption for the benefit of provided housing (Enforcement Decree of the Special Tax Treatment Control Act §16-2)

Article 18-2 of the Special Tax Treatment Control Act has been amended to exclude welfare-type benefits described in Article 12(3) of the Individual Income Tax Act from the non-taxable provisions under the special tax rate regime for foreign workers. The specific scope of non-taxable income is detailed in the enforcement decree.

Newly established under Article 16-2 of the enforcement decree of the Special Tax Treatment Control Act, the exclusion from non-taxable income under the special tax rate regime for foreign workers now specifically includes benefits derived from housing provided to employees.

The intent of this new regulation is to facilitate the entry of foreign workers into the country, and it will take effect for tax years commencing on or after January 1, 2024.

Rationalization of the scope of labor costs eligible for R&D tax credits (Schedule #6 in the Enforcement Decree of the Special Tax Treatment Control Act)

Labor costs eligible for R&D tax credits exclude retirement income, provisions for retirement benefits, and retirement pension contributions.

However, according to amendment, the amendment refines the scope of deductible labor costs to specifically include the employee contributions for the four major social insurances (National Pension, Health Insurance, Employment Insurance, Industrial Accident Compensation Insurance).

This revision aims to clarify the deductibility of these social insurance premiums. It will be effective for fiscal years commencing on or after January 1, 2024.

HR & Payroll updates

Overtime limits violations and other payroll related changes

Following an announcement from the Department of Labor, the existing administrative interpretation of overtime limit violations has changed. In addition, there are other changes on payroll, including caculation of Earned income tax credit, tax-free thresholds, and other payroll-related matters.

HR updates

Updates on overtime work limits violation

Change in administrative interpretation of 52-hour workweek policy

The Ministry of Employment and Labor announced on January 22, 2024, that it will change the existing administrative interpretation of overtime work limits, in accordance with the recent Supreme Court ruling on this matter (December 7, 2023, 2020 Do15393).

Previously, even if the total working hours per week were less than 52 hours, any working hour exceeding the legal working hours of 8 hours per day were considered as overtime; if this overtime work exceeded 12 hours per week, it was considered as a violation of the law.

However, from now on, any working hour exceeding the legal working hours of 40 hours per week are considered as overtime.

Nevertheless, overtime pay standards remain unchanged: overtime exceeding 40 hours per week should be compensated at a rate of at least 50% of the regular wage.

Payroll updates

Income tax calculation & Non-taxable ceiling

Monthly income tax calculation method update (Applicable from March 2024)

Monthly income tax calculation method has been adjusted as follows:

As-Is	To-Be
The number of children aged 8 to 20 was added to the total number of eligible family members for tax deductions.	The deduction amount varies based on the number of children aged 8 to 20 as below: • 1 child: KRW 12,500 • 2 children: KRW 29,160 • 3 or more children: KRW 29,160 + KRW 25,000 per additional child from third child.

Increase the non-taxable ceiling amount for childcare allowance (Applicable from January 2024)

To support childbirth and childcare, the tax-free allowance for childcare allowance for children aged 6 and below has been increased.

Item	As-is	To-Be
Upper limit	KRW 100,000 (monthly)	KRW 200,000 (monthly)

Increase the non-taxable ceiling for overseas labor income (Applicable to the income from January 2024)

For seafarers and overseas construction workers, the tax-free allowance has been adjusted as follows.

Item	As-is	To-Be
Overseas workers	KRW 1,000,000 (monthly)	KRW 1,000,000 (monthly)
Seafarers and overseas construction workers	KRW 3,000,000 (monthly)	KRW 5,000,000 (monthly)

Payroll updates

Personal services & Accident insurance

Shorten the submission cycle of payment statement for other type of income related to personal services.

Previously, a payment statement of other types of income (i.e. not related to employment income) had to be submitted once a year. But from 2024, a simplified payment statement should be submitted every month for the following income.

- Lecture fees (code 76) and consulting fees (code 79), other types of income related to personal services*

If simplified payment statements are submitted every month for other type income related to personal services paid from January 1, 2024, an annual payment statement does not need to be submitted. However, for other types of income not related to personal services, an annual payment statement still needs to be submitted as before.

If a simplified payment statement for other types of income related to personal service is not submitted every month, a penalty for late submission or non-submission will be imposed. However, for the income paid between January 1, 2024, and December 31, 2024, the penalty will be exempted temporarily if the annual payment statement is submitted by the end of February 2025.

* Relevant law: Article 21, Paragraph 1, Item 19 of the Income Tax

Amendment of Employment and Industrial Accident Insurance Premium Collection Act

Previously, if the following employment relationship changes occurred in the middle of the month, the monthly insurance premium was calculated on a pro-rata basis:

- If the worker was newly hired in the middle of the month.
- If the worker was transferred to another workplace of the same employer in the middle of the month.
- If a reason prescribed by Presidential Decree, such as a leave of absence, ended in the middle of the month.

However, from 2024, it will be charged from the following month. However, if the change occurs on the 1st of the month, the monthly insurance premium will be charged from the relevant month.

Audit & accounting updates

Amendments to K-IFRS and K-GAAP

As the Korea Accounting Standards Board decided to revise a total of 7 standards for K-IFRS and K-GAAP in 2023, it announced the revised standards on December 13, 2023.

Amendments to K-IFRS and K-GAAP

1. "Non-current liabilities subject to covenants" in financial statements (K-IFRS No. 1001)

Amendments

Addition of provisions on the classification of liabilities as current and non-current and related disclosure and presentation of such liabilities.

- The requirement to comply with certain conditions within 12 months after the reporting period does not affect the assessment of the right to defer settlement of liability for more than 12 months after the reporting period as of the end of the reporting period. (New paragraph 72B)
- If liabilities subject to the conditions of paragraph 72B are classified as non-current, relevant information must be disclosed to enable assessment of the risk that such liabilities will be settled within 12 months. (New paragraph 76ZA[2])
- Added Liabilities classified as non-current in paragraph 72B are presented separately in the statement of financial position. (New paragraph 76ZA[2])

Objective

To clarify the criteria for judging the liquidity classification of debt when the right to postpone payment of debt is affected by specific conditions such as borrowing agreements, etc.

Effective date

Effective from the first fiscal year starting after January 1, 2024.

2. "Crypto assets" in financial statements (K-IFRS No. 1001)

Amendments

New disclosure requirements for crypto asset holders, developers, and business operators (paragraph Han138.6 added)

- Holder
  - General information (name, characteristics, quantity), accounting policy
  - Acquisition route, acquisition cost, book value, and fair value at the end of the current period for each crypto asset
  - Amount recognized as profit or loss
- Developer (Publishing)
  - General information related to issuance, accounting policy
  - Company's judgment on the main details of the sale, duties, and obligations related to the sale
  - Revenue recognition period and amount related to the sale
- Business operator (held on behalf of the customer)
  - Contract details, accounting policy
  - Fair value
  - Risks due to storage
  - When stored separately from the Internet or entrusted to an external source, the information

Objective

Resolving differences of opinion between companies and auditors due to the absence of specific disclosure requirements related to crypto asset transactions and improving comparability between companies.

Effective date

Effective from the first fiscal year starting after January 1, 2024.

Audit & accounting updates

Amendments to K-IFRS and K-GAAP

3. Lease (K-IFRS No. 1116)

Amendments

Provision to apply general lease follow-up measurement method to right-of-use assets and lease liabilities of sale-and-leaseback (new paragraph 102A)

Objective

Supplementation of insufficient provisions regarding subsequent measurement of right-of-use assets and lease liabilities in sale-and-leaseback transactions in the current leasing standards.

Effective date

Effective from the first fiscal year starting after January 1, 2024.

4. Corporate tax (K-IFRS No. 1012)

Amendments

Addition of a temporary exception to the recognition and disclosure of deferred tax assets and liabilities related to Pillar 2 corporate taxes (paragraphs 4A, 88A). Additionally, additional disclosure of qualitative and quantitative information is required.

- Before the enactment of the Pillar 2 law and before it took effect: qualitative and quantitative information that is already known or can be reasonably estimated to help information users understand a company's exposure to Pillar 2 corporate tax.
- After the issuance of Pillar 2 law: separate disclosure of current corporate tax expenses related to Pillar 2 corporate tax.

Objective

To clarify the accounting treatment method and disclosure information for Pillar 2 corporate taxes arising from the implementation of the Pillar 2 model rules.

- Pillar 2 Model Rule: established by the Organization for Economic Cooperation and Development (OECD) in December 2021 to solve tax problems arising from the digitalization of the economy, it requires to pay 15% (minimum tax) of excess profits generated in each country where large multinational consolidated entities do business.

Effective date

- The deferred tax exception provisions (paragraphs 4A and 88A) will be effective immediately upon promulgation in 2023 and will be applied retrospectively following IAS 8.
- Additional disclosure requirements (paragraphs 88B to BBD) apply for fiscal years beginning on or after January 1, 2023.

5. Statement of Cash Flows (K-IFRS No. 1007) and Financial Products: Disclosure (K-IFRS No. 1107)

Amendments

Disclosure of supplier finance agreement information separately from changes in liabilities arising from financial activities (K-IFRS No. 1007 Statement of Cash Flows, new paragraphs 44F to 44H) and disclosure of liquidity risk arising from supplier finance agreement (K -IFRS 1107 Financial Instruments: Disclosure, new paragraphs B11F and IG18A).

Supplier financing

It refers to a form of financing provided by financial institutions of the exporting country to exporters for large-scale capital goods with a large export amount and long term, such as industrial equipment, ships, and aircraft.

Effective date

Effective from the first fiscal year starting after January 1, 2024.

Audit & accounting updates

Amendments to K-IFRS and K-GAAP

6. Preparation and presentation of financial statements I (K-GAAP Chapter 2)

Amendments

Clarify the meaning of 'right to postpone payment of debt', specify regulations related to 'meaning and payment method of payment of debt', and disclose information related to 'non-current liabilities with covenants. (paragraph 2.22(2) and 2.22(3) added)

Objective

When determining the current or non-current classification of liabilities with covenants, consideration of the timing of covenant compliance.

Effective date

Effective from the first fiscal year starting after January 1, 2024.

7. Corporate tax accounting (K-GAAP Chapter 22)

Amendments

Pillar 2 Deferred corporate tax assets and liabilities related to corporate tax are not recognized, and information regarding this is not disclosed. Moreover, the fact that the deferred corporate tax exception rule has been applied must be disclosed. (paragraph 22.62 added)

Objective

Like K-IFRS, to clarify corporate tax accounting methods and disclosure information related to the Pillar 2 model rules.

Effective date

The deferred corporate tax exception provisions (paragraph 22.2-3) and notification of application (paragraph 22.62(1)) will be implemented immediately upon promulgation in 2023 and applied retroactively.

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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