KPMG

Tax News Flash

- Transfer Pricing

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Samjong KPMG Transfer Pricing & Customs Service Group provides readers with Transfer Pricing related recent local tax issues and trends.

This newsletter is a monthly publication of Samjong KPMG Transfer Pricing & Customs Service Group. If you need more detailed explanation, please feel free to contact key contacts or Tai-Joon Kim for transfer pricing matters and Tae-Joo Kim for customs matters.

The following are proposed amendments to Korean transfer pricing regulations

The application period of the below proposed amendments is the fiscal year beginning January 1st, 2024, unless otherwise stated.

■ Change in Local File and Master File submission deadline

Law for the Coordination of International Tax Affairs (LCITA) Article 16

Before	Local File, Master File, Country by Country Report submission deadline 12 months after fiscal year end
After	Local File and Master File submission deadline 6 months after fiscal year end. Country by Country Report submission deadline 12 months after fiscal year end.

■ Submission of Statement of Overseas Related Party Transaction

LCITA Article 16

Before	Taxpayers subject to BEPS documentation exempt from submission of Statement of Overseas Related Party Transaction 6 months after fiscal year end.
After	(Deleted)

** Taxpayers subject to BEPS documentation must separately submit the Statement of Overseas Related Party Transaction 6 months after fiscal year.*

■ Exception for Tax Adjustment Imposition Period

Framework Act on National Taxes Article 26-2 (New)

Added	Korean tax authority (National Tax Service) may impose tax adjustment 1 year after tax authority is aware of the change in global minimum tax rate

Clarification of the definition of Permanent Establishment

LCITA Article 61

Before	Definition of Permanent Establishment - Domestic business establishment in accordance with Corporate Income Tax Act - Business establishment that is similar to domestic business establishment located overseas
After	Definition of Permanent Establishment ① A place of business (including a deemed place of business) situated in a jurisdiction and treated as a Permanent Establishment in accordance with an applicable Tax Treaty in force ② A place of business (including a deemed place of business) in respect of which a jurisdiction taxes the income attributable to such place of business on a net basis if no Tax Treaty in force ③ A place of business (including a deemed place of business) situated in jurisdiction that would be treated as a Permanent Establishment in accordance with the OECD Model Tax Convention if a country has no corporate tax system ④ A place of business (or a deemed place of business) that is not already described from ① to ③ through which operations are conducted outside the jurisdiction where the entity is located provided that such jurisdiction exempts the income attributable to such operations.

Exemption Criteria of GloBE Rules according to QDMTT (Qualified Domestic Minimum Top-Up Tax)

LCITA Article 70 (New)

Added	Exemption criteria for GloBE top-up tax ① The Accounting Standard, which requires a QDMTT to be computed based on the UPE's Financial Accounting Standard or a Local Financial Accounting Standard subject to certain conditions. ② The Consistency Standard, which requires the top-up tax from QDMTT to be the same or more than top-up tax under the GloBE Rules. ③ The Administration Standard which requires the QDMTT jurisdiction to meet the requirements of an on-going monitoring process similar to the one applicable to jurisdictions implementing the GloBE Rules. (peer review on whether criteria of ① and ② are met)

Special provisions for multinational business groups in the early stages of overseas expansion

LCITA Article 82

Before	5-year exclusion from the UTPR in the early stage of overseas expansion of MNE Groups* * ① Located in 6 or fewer jurisdictions; ② The sum of the net book value of tangible assets is less than 50 million euros
After	Period to apply exclusion from the UTPR of MNE Groups in the initial phase of their international activity - 5 years reckoned from the initial application period (January 1st, 2025) of the UTPR

** Application period: 5-year period starting from January 1st, 2025*

Penalty exemption related to the Globe Top-up Tax in the Transitional Period

LCITA Article 84

Before	Filing and payment for additional tax allocation amount - by 15 months after fiscal year end - payment in installment is accepted if tax amount exceeds KRW 10 million
After	Filing and payment for additional tax allocation amount - by 15 months after fiscal year end - payment in installment is accepted if tax amount exceeds KRW 10 million - exemption for penalty tax for non-submission, under-reporting over-refund during transitional period - penalty tax for late payment reduced by 50%

** Transition period: Fiscal Years that begin on or before 31 December 2026, and end before 30 December 2028*

Exemption of penalty for error in GloBE Information Return

LCITA Article 87

Before	Penalty for error in GloBE Information Return is to be imposed.
After	Exemption of penalty during transitional period* ** Transition period: Fiscal Years that begin on or before 31 December 2026, and end before 30 December 2028* - if appropriate measures* are taken for the application of the global minimum tax, exemption of penalty **① Complete disclosure of all calculation details to tax authorities* *② The misidentification is reasonable* *③ The error is reasonably possible* *④ Three is reasonable interpretation* *⑤ If the tax burden for the current or subsequent business year is not reduced*

Key Contacts

Samjong KPMG Transfer Pricing & Customs Service Group

Gil-Won Kang
Head of TAX 6
T. +82-2-2112-0907

Seung-Mok Baek
TP Partner
T. +82-2-2112-0982

Sang-Hoon Kim
TP Partner
T. +82-2-2112-7939

Tai-Joon Kim
TP Partner
T. +82-2-2112-0696

Yong-Jun Yoon
TP Partner
T. +82-2-2112-0277

Tae-Joo Kim
Customs Partner
T. +82-2-2112-7448

Young-Bin Oh
Customs Partner
T. +82-2-2112-0435

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27th Floor, Gangnam Finance Center, 152, Teheran-ro, Gangnam-gu, Seoul, Korea