



Tax News Flash

- Transfer Pricing

December 2023

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 is a recent Korea's tax ruling in relation to transfer pricing

Cancellation of Imposition of Corporate Income Tax. <Supreme Court Decision 2018doo39621, 2022.07.28>

Background

- The taxpayer (hereinafter, Korean taxpayer) operates a local credit card business in accordance with the Credit Specialized Finance Business Act and the US based credit card company (hereinafter, US credit card company) does not operate local business in accordance with the United States law. The Korean taxpayer contracted an agreement with the US credit card company for the license of trademark to be attached to credit cards issued in Korea.
- In relation to the license of trademark, the Korean taxpayer remunerated the following fee to its transacting party.

Issuer contribution fee	Domestic	Credit card payment amount x 0.03% Cash service amount x 0.01%
Daily issuer contribution fee	Overseas	Credit card payment amount x 0.184% Cash service amount x 0.184%

- The Tax Office deemed that part of the fees paid by the Korean taxpayer to the US credit card company is a royalty amount and service fee which is subject to Value Added Tax (VAT) because the actual location of service provision is Korea. Accordingly, the Tax Office imposed taxation on the non-submission of payment record for the royalty amount and related VAT for the service amount to which the Korean taxpayer requested the cancellation of the imposition of taxes in the Supreme Court.

Tax Office's (Defendant) Claims

- The Tax Office claimed that the issuer contribution fee is deemed as royalty because it was calculated in accordance with domestic transaction amount because domestic payments used the payment system that was developed in Korea by the local credit card company and did not use the US credit card company's payment system. Accordingly, the issuer contribution fee is deemed as a royalty amount for the credit card company rather than business income which is subject to submission of payment record.
- However, the tax office deemed the daily issuer contribution fee as business income rather than royalty income because the fee was remunerated for services provided by the US credit card company and is calculated based on overseas transaction amount.
- In accordance with local VAT regulation, the imposition of VAT is based on the actual location of service provision. The Tax Office claimed for the imposition of VAT considering that the significant portion of the service was provided in Korea. The credit cards that applied the US credit card company's trademark were mostly used in Korea and the Korean taxpayer used the US credit card company's payment system in Korea.

Taxpayer's (Plaintiff) Claims

- The Korean taxpayer deemed that the fees remunerated to the US credit card company were in relation to the credit card company's provision of advertisement service, payment approval process support, and network management. Accordingly, the Korean taxpayer deemed that the fees were business income rather than royalty income and is not subject to submission of payment record.
- The Korean taxpayer deemed that the transaction was not subject to VAT because the US credit card company provided services relating to finance and insurance which doesn't apply VAT in accordance with local VAT regulations.

Result

- In relation to the classification of royalty and business income, the issuer contribution fee was deemed as royalty since the domestic transaction amount is unrelated to US credit card company's payment system, while the daily issuer contribution fee was deemed as business income as overseas transaction amount is related to US credit card company's payment system. Imposition of corporate income tax is to be applied for the license of trademark. On the other hand, as the daily issuer contribution fee is considered overseas business income, it is not subject to corporate income tax in accordance with the Korea-United States tax treaty.

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

home.kpmg/socialmedia



home.kpmg/kr/ko/home/services/tax.html

[Privacy](#) | [Legal](#)

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

© 2023 KPMG Samjong Accounting Corp., a Korea Limited Liability Company and a member firm of the KPMG global organization of independent member firms affiliated with KPMG International Limited, a private English company limited by guarantee. All rights reserved.

The KPMG name and logo are registered trademarks or trademarks of KPMG International.