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Memorandum on Individual Income Taxation of Foreigners in Korea

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The present Korean individual income tax system is a unitary system in which gross income from all sources is aggregated and subject to tax at progressive rates ranging from 6% to 42%. Additionally, there is a local income tax of 10% on income tax liability. Certain deductions and personal exemptions are allowed on a limited basis. Please see the attached tax rate schedules for more detail. Also enclosed is a sample individual income tax calculation worksheet.

For tax purposes, all individuals in Korea are considered to be either residents or non-residents, irrespective of nationality. Aliens (foreigners) are also classified as either residents or non-residents. Foreigners who are classified as tax residents are taxed in most respects in the same manner as Korean nationals. However, under the Individual Income Tax Law ("IITL"), in the case where the period that a foreigner, who is a tax resident of Korea, has his address or abode in Korea does not exceed 5 years in aggregate during the past 10 years from the end of the concerned tax year, his/her foreign source income earned from January 1, 2009 shall be taxed in Korea only if such income is paid in Korea or such income is remitted into Korea.

Under the IITL, residency is determined by a "facts and circumstances" test evaluated on an individual basis. Generally, a resident is a person who has a domicile or a place of residence in Korea for more than 183 days in a given year. An individual, for example, would normally be considered a resident upon arrival in Korea if he has an occupation that would customarily require him or her to reside in Korea for 183 days or more or if his or her family accompanies him or her to Korea, and he or she retains substantial assets (e.g., residential real property) in Korea. Accordingly, foreigners who will be working in Korea on a temporary basis, and who wish to be taxed as a non-resident, should clearly document that their stay in Korea will be short-term. A non-resident is an individual who is not deemed to be a resident. For individuals from countries which have tax treaties with Korea, the definition of residency may be governed by the applicable tax treaty.

Korean citizens and foreigners who are considered to be residents for tax purposes are subject to taxation on worldwide income derived from sources both inside and outside of Korea. The income includes employment (earned) income, business profits, pension, dividend, interest and other income, severance pay, and capital gains. A foreigner deemed to be a non-resident is taxed only on income derived from sources within Korea, including wages and salaries earned in Korea, unless a tax treaty to which the individual is subject indicates otherwise.

A non-resident, however, is not allowed to take all of the deductions granted to residents. The applicable tax treaty is determined by the nationality/residency of the employee concerned and not by the corporate nationality/residency of his/her employer. Regardless of the foregoing, a non-resident who has Korean source income may be exempt from Korean taxes if he/she meets tax exemption conditions under a relevant tax treaty.

Generally, earned income consists of all payments that an individual receives as remuneration, regardless of form. Such income includes wages, salaries, bonuses, commissions, and any other allowances of a similar nature received in return for personal services rendered. The IITL identifies earned income as either Class A or Class B depending on the income source.

Class A earned income is wage income received or accrued from a domestic employer, including a branch office or a representative office in Korea. Such income is subject to payroll withholding taxes by the employer or payer on a monthly basis.

Class B earned income is wage income received from a foreign employer outside Korea. Under the Class B payment arrangement, the payments must be borne by the foreign employer outside Korea and should not be charged back to its permanent establishment in Korea. Once charged back, the payment will be treated as Class A wage income to the employees in Korea. The employer is not required to withhold Korean taxes on Class B income at the time of payment. Instead, the individual is required to declare this income annually and pay income taxes thereon on a voluntary basis. Alternatively, the individual may elect to pay Class B income taxes through a Class B taxpayers' association, which collects and remits such taxes on a monthly basis. Taxpayers who join such a Class B taxpayers' association and meet the monthly payment obligations receive, in addition to the tax credit applicable for Class A wage income, a 5% reduction in the amount of income tax payable.

In the case of domestic companies using foreign secondees and satisfying certain conditions, they are required to withhold payroll income tax at 19% (plus local income tax of 1.9%) when they pay service fees to the foreign corporation which dispatched the foreign secondees. Year-end settlement and refund claim procedures may be undertaken by the domestic company on behalf of the foreign company.

The foreign expatriate officers and employees are eligible to apply a flat income tax rate of 19% (plus local income tax of 1.9%) instead of the progressive income tax rates ranging from 6% to 42% plus local income tax (an application must be filed separately) to the earned income during the taxation period that ends within 5 years from the date of first providing the domestic work. However, when choosing the flat income tax rate, the expatriate officer or employee concerned must give up all the existing available benefits including nontaxable income treatment, tax reduction and tax exemption relating to income taxes.

Taxpayers making monthly tax payments and having only one source of worldwide income (i.e., either Class A or Class B) are generally not required to file a global income tax return since the employer (for Class A income earners) or the Class B taxpayers' association (for Class B income earners) finalizes the individual's tax liability at the end of the year. Taxpayers having more than one source of income, however, are required to file a global income tax return for the year and pay taxes due on such income on or before May 31 of the following year, or prior to permanently leaving Korea. In case an employee has both Class A and Class B income declared to the Class B taxpayers' association, the employer who pays Class A income may finalize the employee's tax liability by including Class B income in the year-end exact payroll withholding tax settlement at the end of the year instead of the employee filing a global income tax return.

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With any inquiries or comments, please contact tax specialists of Hanul LLC, a member firm of Crowe Global [Telephone: (82)(2)316-6600, Facsimile:(82)(2)775-5885, or Email: post@crowe.kr].

Hanul LLC offers a full range of professional services relating to tax, accounting, auditing, payroll and benefits, and other business-related matters

Attachment: I. Individual income tax rates schedule
II. Sample individual income tax calculation.

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HJH/KSH/jwc
Individual Income Taxation

ATTACHMENT I

I. Individual Income Tax Rates

Annual taxable income (A)		Tax rates	
Over	Up to	From 2018	Calculation formula
-	Won 12,000,000	6%	(A) * 6%
Won 12,000,000	46,000,000	15%	720,000 + [(A)-12,000,000]*15%
46,000,000	88,000,000	24%	5,820,000 + [(A)-46,000,000]*24%
88,000,000	150,000,000	35%	15,900,000 + [(A)-88,000,000]*35%
150,000,000	300,000,000	38%	37,600,000 + [(A)-150,000,000]*38%
300,000,000	500,000,000	40%	94,600,000+ [(A)-300,000,000]*40%
500,000,000	-	42%	174,600,000+[(A)-500,000,000]*42%

* Local income tax is added at the rate of 10% on income tax liability.

II. Exemptions and Deductions from Individual Income

- Basic deduction: Wion 1,500,000 per person
- Earned income deduction:

Earned income (A)			
Over	Up to	Deduction rate on excess	Calculation formula
-	Won 5,000,000	70%	(A) * 70%
Won 5,000,000	15,000,000	40%	3,500,000 + [(A)-5,000,000]*40%
15,000,000	45,000,000	15%	7,500,000 + [(A)-15,000,000]*15%
45,000,000	100,000,000	5%	12,000,000 + [(A)-45,000,000]*5%
100,000,000		2%	14,750,000 + [(A)-100,000,000]*2%

* Earned income deduction shall not exceed Won 20 Million.

- Additional deductions: Varies

Note: Tax credits for medical expense, education expense, insurance premium, charitable donation, etc. are also allowed subject to certain limitations. Instead, a taxpayer may elect a standard tax credit of Won 130,000.

ATTACHMENT II

SAMPLE INDIVIDUAL TAX CALCULATION

(Tax Period : From January 1, 2020 To December 31, 2020)

Assumptions

Resident husband (alien) and wife, two children; one spouse earns all the income; salary is paid in either Korean or non-Korean currency (assume Class A earned income).

Tax computation		**Option I** (per progressive tax rate)	**Option II** (per flat tax rate)
Base salary		W142,000,000	W142,000,000
Overseas allowances		40,000,000	40,000,000
Gross income		182,000,000	182,000,000
Less:			
Earned income deduction	W16,390,000		
Basic allowance	6,000,000	(22,390,000)	N/A
Taxable income		W159,610,000	W182,000,000
Income tax [(6%~42%) vs. (19%)]		W 41,251,800	W 34,580,000
Tax credit for earned income (Different tax credit rate with ceiling of W740,000, different ceiling by annual income)		(500,000)	N/A
Children related tax credit (Won 150,000 per child over 6 years old, different ceiling by the number of child)		(300,000)	N/A
Standard tax credit		(130,000)	N/A
Income tax after tax credit		40,321,800	34,580,000
Local income tax (10% of income tax liability)		4,032,180	3,458,000
Total taxes payable		W 44,353,980	W 38,038,000