

Recommendation to the Ministry of Strategy and Finance

Seoul Japan Club Tax Committee

April 29, 2011

Recommendation (1): Postponement of Tax Investigation

(SJC Tax Committee)

Name of Item	Postponement of Tax Investigations on Japanese Investment Companies Due to Great Disaster in Japan (Paragraph 2 of Article 81-7 of the National Basic Tax Act)
Present Status and Problems	<p>According to the current law, in the case where there is a serious business difficulty due to natural disaster, fire, or other natural disasters, a taxpayer may request for the postponement of investigations to the head of the jurisdiction tax office.</p> <p>For the reasons stated below, it is difficult to efficiently respond to various tax investigations (National Tax Service and Korea Customs Service) in Korea.</p> <p>Due to the great disaster in Japan that occurred in March,</p> <p>1) Many Japanese investment companies import and sell or manufacture and sell from the head office in Japan, therefore, the settlement of the head office has not been finished yet, making it difficult to settle the affiliate companies in Korea.</p> <p>2) There were many consultations concerning the response to great disaster at the head office in Japan, which caused lots of business trips for the CEO and CFO of local corporations in Korea.</p> <p>3) During the tax investigations, in the case where it was necessary to get various data from the head office, or ask for cooperation from the head office employees, it was difficult to get wanted help.</p>

Recommendation	It will be difficult to postpone tax investigations on all Japanese investment companies, but considering the individual cases, we request for the postponement of tax investigations for a certain period (National Tax Service and Korea Customs Service).

**Recommendation (2):
Postponement of Reporting and Paying Corporate Tax**

(SJC Tax Committee)

Name of Item	Postponement of the Deadline for Reporting and Paying Corporate Tax for Japanese Investment Companies Due to the Great Disaster in Japan (Article 7 of the National Basic Tax Act)
Present Status and Problems	<p>According to the current law, the head of the jurisdiction tax office may postpone the deadline for a taxpayer that falls under any one of the following:</p> <ol style="list-style-type: none">1) In the case of fire or other disasters or robbery; or2) In the case of a taxpayer facing a serious damage to the business or a serious crisis facing the business. <p>The Japanese investment companies need to receive the postponement of the deadline for reporting and paying corporate taxes as follows:</p> <p>Due to the</p> <p>Due to the great disaster in Japan that occurred in March,</p> <ol style="list-style-type: none">1) Many Japanese investment companies import and sell or manufacture and sell from the head office in Japan, therefore, the settlement of the head office has not been finished yet, making it difficult to settle the affiliate companies in Korea.2) Regarding the response to the recovery by the head office in Japan, it was necessary to send money to the head office.
Recommendation	As seen above, in the case where a Japanese investment company applies for the postponement of reporting and paying corporate taxes, we ask for the head of the jurisdiction tax office to take individual

	company situation into consideration to deal with it in a flexible manner.
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Recommendation (3): Inclusion of the Great Disaster Fund as Deductible Expenses

(SJC Tax Committee)

Name of Item	Inclusion of Various Donations Provided to Support the Japanese Great Disaster as Deductible Expenses (Article 24 of the Corporate Tax Act)
Present Status and Problems	<p>In order to support the Japanese Great Disaster, many organizations have collected various donations, including Japanese companies, foreign companies, Korean companies in Korea, as well as the Korean people, but there are the following difficulties:</p> <ol style="list-style-type: none">1) Depending on who the entity of collecting the donation is, it has to be registered with the Ministry of Public Administration and Security, which is complicated.2) In the case where the donation is provided by many institutions in Korea instead of an organization registered in Japan, it is not clear whether or not the whole amount donated by the person is interpreted as the legal donation recognized as deductible expenses.
Recommendation	<p>Therefore, we suggest the following two things:</p> <ol style="list-style-type: none">1) Flexible response to the entity of collecting donation Make the registration to the Ministry of Public Administration and Security simple, or allow it to be done later on.2) Regardless of the entity of the donation, if it had been donated for the Japanese great disaster, it should be regarded as legal donation based on the invoice issued by the applicable institution.

Recommendation (4): Foreign Exchange Stabilization Fund

(SJC Tax Committee)

Name of Item	Concerning the Foreign Exchange Stabilization Fund
Present Status and Problems	<p>1) The Foreign Exchange Stabilization Fund, which has been implemented since August 1, 2011, has levied the following high ratio of charges on the average balance of debts in foreign exchange standards for each bank after August 1. The amount that is notified within 4 months after the end of every business year has to be paid to the Bank of Korea in US dollars within 5 months. (For Japanese bank, which ends in March, the end of August of 2012 is the deadline for the first payment) Ratio of levy: less than 1 year: 20bp, 1~3 years: 10bp, 3~5 years: 5bp, more than 5 years: 2bp</p> <p>2) Since the funds raised by the branches of overseas banks are mostly relied on foreign exchange borrowings, the cost of fund raising will rise enormously after the implantation of this system.</p> <p>3) The foreign exchange borrowing of the branches of overseas banks is mostly from the head office abroad. As we have seen from the Lehman Brothers Crisis, the borrowing from the head office different from the funds rose in the market; it maintains a safe balance even during the occurrence of liquidity risk. Therefore, based on the purpose of this system which prevents the rapid inflow and outflow of capitals, it is too harsh to levy charges that include the borrowings from the head office, which shows a very strong characteristic of safe fund, and asking the branches of overseas banks to pay them.</p> <p>4) Also, the portion of increase for procurement costs as a result of burden charges can easily be passed on to the loan ratio of local financial institutions or general companies, which will lead to increasing the overall burden of the Korean economy or industry.</p>
Recommendation	<p>1) In the future, in order for the branches of overseas branches to play the role of safely supplying foreign exchange funds needed in the local industry, as well as facilitate stable development and protect the industry, we request for the current ratio of burden charges to be half of what it is right now.</p>

	<p>2) Based on the purpose of this system to ease the rapid inflow and outflow of capital, we request for the revision of reduction measures on burden charges for the borrowings from the head office, which has a very strong stable capital.</p>
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Recommendation (5): Support for SMEs

(SJC Tax Committee)

Name of Item	Concerning the Definition of SMEs and Tax Exemption in Accordance with the SME Basic Act
Present Status and Problems	<p>1. Present Status</p> <p>If a Japanese corporation that has a total asset of more than KRW 500 billion at the end of the previous business year (head office in Japan) is a Korean company (Korean affiliate, related company) of more than 30% shares, even if other conditions regulated on the SME Basic Act is met, it is excluded from being SMEs because of going against the “Standard of Independence and Ownership of SMEs”.</p> <p>This article has been applied to foreign investment companies also starting from 2009. The special tax exemption on SMEs in accordance with the Special Tax Restriction Act has ended until the tax year that ends before December 31, 2011.</p> <p>2. Problems</p> <p>1) The above regulation is known to be a system to prevent reckless and widespread expansion of Korean companies. Therefore, Japanese companies that invested in Korea are excluded from SMEs to improve the technology of parts and materials in Korea. As a result, Japanese parts and materials companies are hesitating investment in Korea.</p> <p>2) If the special tax exemption for SMEs ends, it will increase the burden of corporate taxes.</p>
Recommendation	1) When deciding on SMEs, we request for the judgment standard for

	<p>actual independence not to be applied to foreign investment companies like in the past.</p> <p>2) We request for the deadline of special tax exemption system for SMEs in accordance with the Special Tax Restriction Act to be postponed.</p>
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Recommendation (6): Inclusion of Bad Debts Expenses as Deductible Expenses

(SJC Tax Committee)

Name of Item	<p>Concerning the Inclusion of Bad Debts Expenses as Deductible Expenses (Article 19-2 of the Corporate Tax Act, Article 19-2 of the Enforcement Decree)</p>
Present Status and Problems	<p>Compared to Japan, the regulation of the Korean Corporate Tax Act is stricter on the conditions for the inclusion of bad debts expenses as deductible expenses, which delays the period for including the bad debts expenses by the company, or there is the possibility of excessive burden on the debtor.</p>
Recommendation	<p>Like Japan's regulation (Basic royalties act 9-6-1 ~ 9-6-3), in cases where the below conditions are met, we request for the inclusion as deductible expenses.</p> <ul style="list-style-type: none"> ① In cases where it is clear that the whole amount will not be recovered based on the asset condition and payment ability of the debtor regarding monetary claims (applied only after disposing of collaterals); ② In case where the whole amount of the debt on credit sales bond does not exceed the collection expenses; ③ In the case where the debt status of debtors concerning monetary bonds have continued for some time and it is recognized that the monetary bond cannot be compensated, including the debtor indicating clearly in writing about the debt exemption.

	<p>④ Regarding the monetary bond, in the case where the amount of debt exemption is decided.</p>
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Recommendation (7): Income of Share Acquisition Resulting From Business Reorganization

(SJC Tax Committee)

<p>Name of Item</p>	<p>Regarding the taxation on similar income of transferring business due to the organizational reform of the Japanese-Korean Tax Treaty (excluding the taxation on transfer difference of the shares of local affiliates during the merger and separation of the head offices located overseas)</p> <p>- There was the response of careful review during the recommendations made in 2010. Any progress after that?</p>
<p>Present Status and Problems</p>	<p>The transfer taxation of shares is regulated by Paragraph 2 of Article 13 of the Japanese Korean Tax Treaty, which regards the transfer of business right on the transfer of shares between non-resident s and non-residents (for example, the case of transferring shares of Korean companies in Japan). It shows there is the right for taxation in Korea.</p> <p>Regarding the taxation related to the organization reform of many advanced countries, if the taxation condition has been met in one country, there is no taxation in another country.</p> <p>However, Korea is not equipped like Canada.</p> <p>(Problems)</p>

	<p>In the case where a Japanese company is reformed to meet the taxation on organization reform of Japan, the tax issue is not a problem in Japan, but in Korea, the organizational reform does not take place because of the problem of taxation on the transfer of business right.</p>
Recommendation	<p>The best is to amend the tax treaty to meet the level of other advanced countries (non-taxation for transfer through organizational reform, etc.). However, even if the treaty cannot be amended, we think that realistic amendment can take place, including the method of exchanging official letters.</p>

Recommendation (8): Post Calculation System for Imported Added Value

(SJC Tax Committee)

Name of Item	Concerning the Post Calculation System for Imported Added Value
Present Status and Problems	The added value tax on imported goods should be paid to the Korea Customs Service within 15 days after reporting on the import (last day of every month for monthly payment companies), while in the case of refunded amount that occurs, the importer gets repayment from the National Tax Service through reporting added value tax by quarter. In the case where a lot of money is refunded, there is a delay in repayment to the jurisdiction tax office, and there is a lack of funding for importers due to a delay of repayment. There can be a delay in repayment depending on the interests of stakeholders of each agency because of different agencies for levying (Korea Customs Service) and repaying (National Tax Service) added value taxes.
Recommendation	The Korea Customs Service suspends the payment of added value taxes when importing for companies that meet certain conditions, while the National Tax Service cuts down on the portion of suspension and repays the rest.