



TP News Flash

Implementation of the Country-by-Country Report Requirements

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Summary

In accordance with the G20/OECD Base Erosion and Profit Shifting (“BEPS”) project, all domestic corporations and foreign corporations in Korea whose international related party transaction amounts exceed KRW 50 billion and sales revenue exceed KRW 100 billion are required to annually submit the Combined Report of International Transactions (“CRIT”), which is comprised of the Master file and the Local file.

Through the latest proposed amendments to the Law for the Coordination of International Tax Affairs (“LCITA”), the Ministry of Strategy and Finance (“MOSF”) is taking measures to implement the submission of the Country-by-Country Report (“CbC Report”) for the fiscal year beginning January 1, 2016, as part of a three-tiered structure along with the master file and local file. The proposed amendments also provide for an extension of the submission deadline for the CRIT, as well as an exemption from submission requirements of the local file for corporations whose international transactions are currently covered by an Advance Pricing Agreement (“APA”).

Implementation of the CbC Report

The latest proposed amendments to the legislation state that the **ultimate parent company of a Multinational Enterprise Group (“MNE Group”) domiciled in Korea whose consolidated sales revenue for the preceding year exceeds KRW 1 trillion (approximately EUR 750 million) should prepare and submit the CbC Report** as part of the CRIT.

In an effort to increase international tax transparency and improve access to information, Korea has signed the Multilateral Competent Authority Agreement (“MCAA”) on June 30, 2016, which allows for the exchange of CbC Reports among tax jurisdictions. The MCAA is a multilateral framework agreement that provides a standardized and efficient mechanism to facilitate the automatic

exchange of information between Parties to the Convention. For example, the CbC Report submitted to the National Tax Service (“NTS”) of Korea by the ultimate parent company of a MNE Group will be exchanged among countries in respect of which the Convention is in force and effect.

The proposed amendments provide that for cases where the ultimate parent company is (i) not subject to submission of the CbC Report in the country in which it is located; or is (ii) located in a country that is not a signatory to the MCAA, the domestic subsidiary or branch of the MNE Group located in Korea may, alternatively, be subject to the submission of the CbC Report.

The time for submission of the CbC Report has been aligned with that of the master file and the local file, which shall be filed by **no later than 12 months after the end of the fiscal year** of the ultimate

parent company of the MNE Group.

Extension of the submission deadline for CRIT

The LCITA stipulates that the submission of the master file and the local file is required at the time of corporate tax return filing for the fiscal year beginning January 1, 2016. As the annual corporate tax return filing period in Korea is relatively short (i.e. within three months of the fiscal year-end) and extension requests for submission of the CRIT are expected to be prevalent, the latest proposed amendment provides for the **due date for filing the master file and the local file to be within 12 months from the end of the reporting fiscal year.**

Exemption from submission of the local file for corporations with an APA

During the legislative process in connection with the preparation and submission of the CRIT, the need was raised for taxpayers that have concluded an APA to be granted exemption from the submission of documentation. The latest proposed amendments to the legislation prescribe that as the (i) filing documents submitted in connection with the APA are similar to the contents of the local file; and (ii) the arm's length nature of transfer prices has been approved by the NTS and relevant contents are updated by the taxpayer every year through submission of annual reports, **corporations are not required to submit a local file for the international transactions currently covered under an APA.**

Adjustment of dutiable value of imported goods based on year-end TP adjustments

The proposed amendments to the Enforcement Decree of the Customs Law allows for the rectification of the customs duty amount through the filing of provisional/final dutiable value when transaction prices are adjusted based on the arm's

length price under the LCITA, provided that certain conditions are met. These conditions include (i) preparation and submission of documentation on planned post-importation adjustments prior to the importation of goods; (ii) the use of methods for calculating the arm's length price as stipulated under the LCITA; and (iii) evidential data of actual receipt/payment.

The proposed amendments are expected to **mitigate potential risks faced by taxpayers arising from differences in the treatment of year-end transfer pricing adjustments for corporate tax and customs purposes.**

Conclusion

The latest implementation of the CbC Report is expected to complete the legislative process for the BEPS documentation standards. The CbC Report is especially important in terms of providing an overall view of the taxpayer's global value chain, global allocation of income, and application of a consistent group-wide transfer pricing policy. As such, it is recommended that all corporations take into consideration any potential transfer pricing risks that may be identified from the preparation and submission of the CbC Report.

The extension of the deadline for submitting the CRIT is expected to alleviate some of the pressure on taxpayers. However, domestic corporations with foreign subsidiaries in countries where BEPS document requirements have been implemented will still be required to prepare relevant documentation for timely submission, as the deadline for submission of the master file and the local file is typically by the time of corporate tax return filing in most countries.

Samil is continuing to engage with the MOSF and the NTS, as well as other key stakeholders, to share our opinions regarding the proposed amendments and promise the timely delivery of any new information and propose appropriate tax strategies to our clients.

If there are any additional questions regarding the matters above, please contact the Samil PwC Transfer Pricing Team.

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