



TP News Flash

Additional reporting requirements on international related party dealings

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Summary

In accordance with the OECD Base Erosion and Profit Shifting (“BEPS”) project, the OECD recently announced new guidelines (Action Plan 13), relating to transfer pricing documentation requirements for multinational companies. Following the release of Action Plan 13, the Ministry of Strategy and Finance (“MOSF”), also announced its proposal to amend the Law for the Coordination of International Tax Affairs (“LCITA”) to strengthen the requirements for documentation related to transfer pricing in Korea. According to the proposed amendments, from 2016, both Korean and foreign corporations will need to submit a Combined Report of International Transactions (“CRIT”), at the time of filing of the corporate tax return. The proposed amendments will need to include further details regarding applicability to taxpayers, information to be included, method of submission, period for submission etc. and corporations will need to be prepared to address and implement the new changes which will differ from the current practices.

Introduction of Combined Report of International Transactions (“CRIT”)

On August 6, 2015, the MOSF announced its proposed amendments to the tax legislation for 2015. Based on the amendments, major changes are anticipated in relation to the submission of information relating to international related party dealings of multinational corporations. These changes have been advocated since 2012, when the G20 and OECD promoted international cooperation for the prevention of BEPS.

In September 2014, the OECD announced further developments on 7 of the 15 Actions Plans for the prevention of BEPS. Of those announced, Action Plan 13 relates to the submission of information relating to international related party dealings (transfer pricing documentation). On November 2014, during the G20 summit, the G20/OECD agreed that it will subsequently implement those measures, and Korea has also taken pre-emptive

steps to amend the relevant legislation.

The key amendments proposed are as follows.

Category	Current	Amendment
Submission requirement	Taxpayers who are engaged in international related party dealings	Domestic corporations that have a certain volume of transactions or certain size in assets, and foreign corporations with domestic businesses.
Information submitted	Statement of international transactions	CRIT
Submission period	By time of tax return filing	No change
Non-submission	Fine of less than KRW 10 million	No change

Under the current legislation, companies that conduct intercompany transactions with related parties in excess of a certain threshold are required to submit the Statement of International Transactions, along with the summary of related party financial statements or statement of financial results and certificate of residence of foreign entities.

According to the amendments, the Statement of International Transactions should be complemented by the submission of the CRIT and it is proposed that the Report should contain 2 of the 3 documents outlined in the OECD BEPS recommendations.

Documentation recommendations under OECD BEPS Action 13

	Master File	Local File	Country-by-country Report
Main content	Information relating to global business and TP policy, management activities and overall company information	Details of related party transactions of the local entity including economic analysis to support the arm’s length nature of the transactions.	Global template that contains information regarding each affiliate’s business, revenue, operating margin, tax payment, general information etc.
Applicable party	Ultimate parent company	Each local entity	Ultimate parent company
Submission period	At the time of ultimate parent company tax return filing	At the time of local entity tax return filing	Within one year of the ultimate parent company tax return filing
Receiving party	Local tax authorities	Local tax authorities	Tax authorities that are signatories of exchange of information provisions
Revised tax law	Included	Included	Excluded

According to the proposed amendments, it is expected to be legislated that of the abovementioned three documents, the CRIT should contain all information in the Master File and Local File, excluding the Country-by-Country Report (“CbCR”). The legislation outlining details of the CRIT will be implemented after taking into consideration the practices and circumstances of other international legislation.

party transactions of the taxpayer, and is a replacement of the “transfer pricing report” required to be maintained by taxpayers. Therefore, it is necessary for the proposed amendments for the CRIT to clearly outline the format of the document, as well as the type of information that should be included. Furthermore, consideration needs to be given to any aspects of the proposed amendment regarding transfer pricing-related information which may be consistent or in conflict with the current legislation.

Additional considerations

• **Format for the CRIT**

The amendment is proposing to complement the current Statement of International Transactions. However, the Master File and Local File proposed by the OECD is a transfer pricing-related document to support the arm’s length nature of the related

• **Requirement to submit information**

Based on the proposed amendments, the Master File, which is prepared by the ultimate parent company, also needs to be submitted in Korea for both Korean-based corporations, as well as foreign corporations. However, in the event that the

legislation regarding the preparation of a Master File is not enacted in the country of the parent company, or, based on threshold requirements, no Master File is required by the parent company, it may be difficult for the Korean affiliate to prepare and submit the required Master File. Therefore, given the difficulties that may occur in practice, consideration also needs to be given to flexibility in implementation of the proposed amendments.

- **Period of submission**

The amendments propose the submission of the CRIT at the time of filing the corporate tax return. However, in the event that there are differences in the financial year end or tax filing date between the parent company and the local entity, this may result in some difficulties. Given the short preparation period of 3 months to file the corporate tax return in Korea, the preparation and submission of both documents may not be feasible. Therefore, it may be necessary to extend the submission date of the CRIT to provide sufficient time for the taxpayer to prepare the relevant information. At the same time, the taxpayer should also prepare in advance to collect and prepare the necessary information.

- **Country-by-Country Report**

Both the tax authorities and corporations have shown keen interest in the implementation of the CbCR. The current amendments do not specifically address this, however, as other countries also legislate on having greater transparency, Korean corporations with operations abroad may be required to submit information to foreign tax jurisdictions. Therefore, local legislation should introduce clear guidance on the requirements of CbCR as soon as possible to provide clarity for taxpayers.

Conclusion

The proposed amendments outlined above are generally consistent with the G20/OECD BEPS objectives in promoting international cooperation to prevent BEPS.

BEPS is not only relevant to Korea, but has gained active participation from key global countries and strongly emphasizes the need for greater transparency between countries in relation to the international related party transactions of multinational corporations. Furthermore, with potential obligations of further submitting CbCR, this means that the global value chain of multinational companies will be exposed, and information regarding tax payments made in each respective jurisdiction will be visible to tax authorities. Therefore, multinational corporations should begin to focus on diligently complying with reporting obligations, and take a proactive approach to avoid any unnecessary tax disputes across jurisdictions.

Furthermore, as Korea introduces the relevant legislation, Korean companies with operations abroad, as well as foreign companies with operations in Korea will need to take proactive measures to ensure that they are aware of the changing environment, such that they can respond quickly to any major changes.

Samil is continuing to engage with the MOSF and the National Tax Service, as well as other key stakeholders, to share our opinions regarding the proposed amendments and promise the timely delivery of any new information and proposed tax strategies to our clients. If there are any additional questions regarding the matters above, please contact the Samil PricewaterhouseCoopers Transfer Pricing Team.

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